



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/1992/SR.49
5 March 1992

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Forty-eighth session

SUMMARY RECORD OF THE 49th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 2 March 1992, at 10 a.m.

Chairman: Mr. SOLT (Hungary)

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The meeting was called to order at 10.20 a.m.

RIGHTS OF THE CHILD, INCLUDING:

- (a) STATUS OF THE CONVENTION ON THE RIGHTS OF THE CHILD;
- (b) REPORT OF THE SPECIAL RAPPORTEUR ON THE SALE OF CHILDREN;
- (c) PROGRAMME OF ACTION FOR THE ELIMINATION OF THE EXPLOITATION OF CHILD LABOUR;
- (d) DRAFT PROGRAMME OF ACTION FOR THE PREVENTION OF THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY (agenda item 22) (continued) (E/CN.4/1992/45, 54, 55 and Add.1, 71 and 74; E/CN.4/1992/NGO/5, 14 and 32; E/CN.4/1991/51; E/CN.4/Sub.2/1991/41 and Corr.1; CRC/C/7)

1. Mr. SAFARIAN (Islamic Republic of Iran) said that the situation of children was one of the most distressing of contemporary humanitarian problems. Nearly 30,000 children throughout the world died every day from curable illnesses, from malnutrition, and from the lack of adequate drinking water, sanitation and medicines, while millions of others lived in abject poverty and illiteracy. Even more alarming was the recent trend in certain Western and other countries towards the sale of children and their organs as well as the use of children in prostitution and drug smuggling activities.

2. The underlying cause of that problem was not the lack of resources or information but rather the absence of a concrete socio-political strategy based on ideas and methods that had been successfully employed elsewhere. The resources for that effort could be made available by reducing military spending. Indeed, the recent decline in international tensions could contribute to greater cooperation among States in promoting human rights as a whole, and particularly the rights of children, with special emphasis on the education of girls and young women in the developing countries.

3. A significant step in that direction had been taken by the adoption of the Convention on the Rights of the Child by the General Assembly in November 1989 and the broad support which it had received from the international community. His own Government had signed the Convention on 5 September 1991 and had initiated the constitutional process required for its ratification.

4. Moreover, inspired by the noble precepts of Islam, his Government had already attached special importance to the situation of children, who occupied a place of importance in the country's five-year programme for cultural and socio-economic development. He was convinced, however, that a proper environment for the development of children could be provided only if the international community as a whole was committed to peace and socio-economic development.

5. Mr. CUNHA ALVES (Portugal) said that the growing concern of the international community to guarantee respect for the rights of children had been manifested by the broad and enthusiastic support which the Convention on the Rights of the Child had received. In the implementation of the Convention,

there was a need for coordination among the various mechanisms concerned, such as the Committee on the Rights of the Child, the Special Rapporteur and the Working Group on Contemporary Forms of Slavery of the Sub-Commission. The same approach should be followed within the Centre for Human Rights so as to avoid the duplication of activities and to create a large pool of information and greater awareness of the action to be taken by the various mechanisms established.

6. In addition, the Secretary-General should be invited to report to the Commission not only on the status of signatures, ratifications and accessions to the Convention, but also on all actions taken by the United Nations to promote its implementation, such as publications, information and training sessions, and the activities of the Committee on the Rights of the Child.

7. The Committee on the Rights of the Child had an important role to play as a body of independent experts charged with the task of monitoring the manner in which the rights of the child were guaranteed and respected. At its first session, in October 1991, the Committee had clearly manifested its intention to pursue that role in an active and constructive way by means of a fruitful dialogue with States and with organs that were competent in the field of children's rights. The Committee had demonstrated keen interest in developments within the Organization and in the activities of other bodies which might be of relevance to its own work. It was also concerned with creating greater awareness of the Convention and intended to consider, at its second session, the question of the participation of children in armed conflict.

8. Turning to the question of the resources required for the proper functioning of the Committee, he said that his delegation supported the Committee's recommendation that it should hold two sessions each year and that a pre-sessional working group should be established. It also supported the recommendation that the travel costs of experts should be paid in order to permit their participation in a working group of the Committee in 1992.

9. His delegation was deeply concerned about certain reservations entered to the Convention, which represented first and foremost a political commitment on the part of the States parties to respect and guarantee, without discrimination, each of the rights enshrined in the text. The reservations in question were too vague and general and could affect the provisions of the Convention as a whole. In fact, article 51 of the Convention expressly disallowed reservations which were incompatible with its object and purpose. States should be encouraged to withdraw reservations that were contrary to the principles of international law and, in that connection, his delegation supported the decision to include in the agenda of the following meeting of chairpersons of treaty bodies the question of reservations and their legal effects.

10. In his report (E/CN.4/1992/55), the Special Rapporteur on the sale of children reaffirmed certain common concerns and problems involving different forms of child exploitation. He had also adverted to the solutions attempted and progress achieved and had pointed to the need for complementarity between governmental and non-governmental action and between the prevention and the repression of child exploitation. The report recognized the essential value

of promoting and protecting the rights of the child and made general recommendations aimed at preventing the sale of children, child pornography and child prostitution.

11. In that connection, his delegation considered it to be of vital importance to establish a precise legal system that would emphasize respect for and protection of the rights of the child and not merely criminalize actions that violated those rights. An institution that could act in the name of children could play an important role in such a legal system.

12. His delegation also agreed with the recommendation by the Special Rapporteur that training programmes should be established in the field of the rights of the child for those most directly concerned with the interpretation and application of the standards that had been set. In that area, the advisory services of the Centre for Human Rights could play a key role.

13. Lastly, his delegation supported the recommendation by the Special Rapporteur that States should be invited to establish or identify a national mechanism to monitor the situation of the rights of the child, including the sale of children and their exploitation in prostitution and child pornography.

14. In view of the importance of the Special Rapporteur's work, his mandate should be renewed to enable him to make studies in greater depth of situations such as that of child soldiers, the enforced disappearance of children and their use as donors of organ transplants.

15. Mr. HUSSEIN (Iraq) said that, while welcoming the adoption of the Convention on the Rights of the Child, which had crowned the efforts of the international community to guarantee the protection of the rights of children, he lamented the fact that many countries closed their eyes to what was happening to millions of children in different parts of the world, particularly in Iraq, in violation of the provisions of the Convention. In Iraq, Palestine and other parts of the world, even the right of children to life was being violated.

16. In its economic and political policies and legislation, Iraq had always placed emphasis on the welfare of women and children. In cooperation with organizations such as UNICEF and WHO, free maternal and child care services had been provided, and, despite difficulties, successful programmes had been established to control the infant mortality rate. Those programmes, however, had come to an abrupt end because of the unjust economic blockade and the military aggression against Iraq.

17. The effect of the intense bombing of heavily populated urban areas was indescribable. Millions of children had been affected and were currently exposed to the risk of infection or worse. The only milk factory in the country had been bombed. Food and medical supplies were scarce. The mental anguish endured by the children of Iraq, even those of pre-school age, had led to a rise in the incidence of disturbed behaviour patterns and stunted growth. In fact, two thirds of the children surveyed had said that they would not live to see puberty.

18. The report prepared in October 1991 by United States humanitarian organizations noted that the infant mortality rate had increased four-fold since the end of the war. Another report, prepared by a group at Harvard in March 1991, estimated that 170,000 children would die in 1992 unless the blockade was lifted. Nevertheless, the violation of the rights of the children of Iraq continued, in contravention of the Convention on the Rights of the Child. A third study had even concluded that, if the sanctions were not lifted, the international community would be participating in the crime of genocide against the innocent children of his country.

19. Mr. O'CONNOR (Australia) said that his delegation was encouraged by the very large number of countries that had already become parties to the Convention on the Rights of the Child, and the broad representation among them of different political and legal systems. It urged the Governments that had not yet done so either to sign or to ratify the Convention as soon as possible. However, acceptance of the Convention must be more than a formal commitment, in that it required a continuing plan of action.

20. In Australia, there had recently been vigorous debate in a number of jurisdictions regarding juvenile-justice issues and measures to deal with juvenile offenders. The Federal Attorney General and the Federal Human Rights Commissioner had each emphasized that any measures adopted must comply with the obligations which Australia had accepted under the Convention and other instruments.

21. That requirement was all the more urgent in that the children of Australia's indigenous peoples continued to suffer disproportionate rates of involvement with the juvenile-justice system, as well as disadvantages in respect of health, education and the enjoyment of many other generally recognized human rights. His Government was resolutely committed to redressing those disadvantages.

22. The Convention had already begun to have an important impact on Australian law through the system of courts and tribunals. Two recent decisions of the Administrative Appeals Tribunal, for example, had specifically cited and applied articles of the Convention in relation to the provision of social security benefits for children. His delegation would be particularly interested in any similar developments which members of the Commission might know about in their own legal systems.

23. His delegation wished to emphasize once again the importance of the role of the Committee on the Rights of the Child for the effective implementation of the Convention, and the need to ensure that the Centre for Human Rights had sufficient resources to service that Committee. He welcomed the Committee's recognition of the importance of cooperation with UNICEF and other relevant United Nations agencies and also, in particular, with non-governmental organizations. Also noteworthy was the Committee's indication that the preparation and follow-up of reports should involve a comprehensive review of national law and practices regarding children, including the widest possible community participation.

24. In that connection, his delegation also welcomed the report on the sale of children (E/CN.4/1992/55) submitted by the Special Rapporteur appointed in accordance with Commission resolution 1990/68. That report provided a valuable conceptual framework for analysing the various forms of exploitation of children in both developed and developing countries, and his delegation agreed with the Special Rapporteur's view that the problem of the exploitation of children must be addressed by a whole range of legal, social and economic measures.

25. Ms. WIJONO (Indonesia) said that she was pleased to report that her country had become an early signatory to the Convention on the Rights of the Child, which it had been able to ratify within a matter of months, since it was in keeping with Indonesia's legislative and constitutional provisions. Having accepted the legal and moral guidance offered by the Convention, Indonesia would continue its long-standing commitment to children's welfare.

26. Her delegation also welcomed the convening of the first session of the Committee on the Rights of the Child in 1991. The groundwork had been laid at the first session for the guidelines for reporting procedures, and a pre-sessional working group would ensure timely consideration of those reports by the Committee. The coming year was particularly important in that it was the first year that country reports would be submitted for consideration.

27. Indonesia's activities at the national level incorporated ongoing development programmes for children and initiatives stemming from the Convention and from the World Summit for Children. In 1991, the World Health Organization had honoured the President of her country with an award in recognition of the tangible results achieved by his Government in the development of health care and, in particular, its successful nationwide child immunization programme.

28. Follow-up programmes were also being undertaken to monitor the promotion of child welfare in the 27 provinces of Indonesia, and a working group on the promotion of child welfare had been convened at the national level for the purpose of identifying indicators which would serve to measure the factors affecting child welfare. Regional authorities had subsequently taken action to disseminate the relevant information, which would be included in a report on the situation of children in Indonesia, scheduled for publication in March 1992. A network for cooperation had been established among the States members of the Association of South-East Asian Nations (ASEAN) to implement the Convention on the Rights of the Child.

29. In addition to addressing the issues of child health and physical development, Governments should also make efforts to ensure that children were able to develop in a safe environment, free from exploitation. If, for whatever reason, children had to work, it should be at a level consistent with their physical and mental development. Her Government's policy in that regard was reflected in its labour legislation, which stipulated that children under 14 years of age were prohibited from working. Compulsory education also had an impact on the number of children entering the workforce. However, child labour could not be eliminated solely through legislation, and low levels of socio-economic development and the overwhelming need for family and personal security had compelled children in all parts of the world to work.

While it could not be condoned, that reality could not be ignored, and her Government had therefore taken additional measures to provide facilities for children who were obliged to work so that they could acquire the education they needed to help themselves.

30. In that context, her delegation welcomed the establishment by the International Labour Organisation (ILO) of an International Programme on the Elimination of Child Labour (IPEC), the objective of which was to minimize the impact of the problem, if not to eradicate it. Indonesia was a potential participant in the programme, which would be implemented there in the form of projects administered by non-governmental religious organizations in three or four urban areas.

31. Her Government expressed its appreciation to the Government of Germany for its financial contribution to IPEC, and called upon other Governments with a strong commitment to the abolition of child labour to follow suit.

32. Attention should be focused on the longer term, beyond the mere survival of the child: in the latter regard, considerable success had already been achieved with immunization programmes and the international community was henceforth in a position to turn its attention to the critical need to secure a quality of life for children that would form the foundation for a future world free from despair and want.

33. Mr. SENE (Senegal) said that the Convention on the Rights of the Child represented a considerable advance on earlier international instruments that affected children's rights in that it made States parties officially accountable for all their actions with regard to children. It was thus more binding and more comprehensive in scope, and it was to be hoped that States ratifying the Convention would meet the obligations they had freely undertaken.

34. However, the acceptance of an obligation was only one aspect of the problem, and the implementation of the rights of children would no doubt continue to give rise to difficulties for a long time to come. Implementation of the Convention in each country would require the introduction of a legal, political and social framework to ensure that the specific features of that particularly vulnerable segment of the population were duly taken into account.

35. In addition to the long-standing hazards of disease, hunger, poverty and ignorance, recent years had seen the emergence of new and more pernicious threats to the welfare of children in the form of the trafficking in and sale of children or their transplanted organs, child prostitution and the exploitation of child labour. Again, what was required was concerted international action based on an appropriate and effective legal and political framework. In addition to such a framework, political action must be taken at the national level to ensure greater protection of children by tackling the underlying causes of their exploitation. In that connection, the Declaration adopted at the World Summit for Children in 1990 provided useful guidelines for a programme of action outlining the objectives to be achieved during the coming decade.

36. In conclusion, he welcomed the positive results achieved at the historic Summit of First Ladies held at Geneva on 25 and 26 February 1992, under the auspices of the International Fund for Agricultural Development, on the topic of the economic advancement of rural women. Emphasis had rightly been placed at that Summit on the need to improve educational, health and nutritional standards for mothers and their children.

37. Mr. ROA KOURI (Cuba) said that recent years had seen the emergence of trends in respect of human rights, and especially the rights of children, which could only be described as monstrous from an ethical point of view: they included the sale of children, assassinations of children and adolescents, participation of children in drug trafficking, child drug addiction, sale of children's organs, prostitution of children and their exploitation in pornography and for sweated labour.

38. The Commission and the Sub-Commission on Prevention of Discrimination and Protection of Minorities had, albeit belatedly, begun to address those issues, which were fraught with immense destructive potential for many societies in the world, but much greater attention would obviously have to be paid to them in future. His delegation would make practical proposals to that end in connection with the Commission's programme of work.

39. The element of complacency prevalent in certain developed countries tended to obscure the scale of those problems, and the "free press" and other media in Europe often ignored the terrible realities of children's lives in the greater part of the world, preferring instead to dwell on the values and amenities of consumer society. It should not be forgotten that, during the five weeks of the Commission's current session alone, some 1,250,000 children throughout the world would have died as a result of malnutrition and inadequate health care.

40. There was no doubt that the "free market" concept underlying the allegedly new world order that was coming into being could not but exacerbate such problems: in the consumer society, children and adolescents themselves were reduced to the status of commodities.

41. The most recent UNICEF report on the situation of the world's children, issued at the end of 1991, would come as a shock to the advocates of a consumer paradise, as would the report (E/CN.4/1992/55) of the Special Rapporteur on the sale of children. The UNICEF report indicated, for example, that 13 million children perished annually, mainly in underdeveloped countries, for want of vaccines, proper nutrition and health care. The ultimate causes of that deplorable situation lay in the economic and social conditions prevailing in the countries of the South, and in particular their crushing burden of debt, which in effect was being borne by their children. The cuts in public expenditure imposed on the third world by the international financial institutions had led to extreme hardship in the poorer strata of the population.

42. Nor were such problems confined to the underdeveloped countries. In the United States of America, as a result of the adoption of neo-conservative economic policies, infant mortality among the poor had risen sharply.

43. In his report, the Special Rapporteur rightly stressed the close relationship between the problems he had outlined and the lack of opportunities for education and employment. His delegation also agreed with the Special Rapporteur's observation, in paragraph 7 of his report, that "socio-economic needs, particularly in developing countries, may lead parents to sell their children or to compel children to undertake activities which are detrimental to their development". He had not hesitated to point out (paras. 14-16) that the law of supply and demand - which was a fundamental principle of capitalism - also applied to the exploitation and sale of children, and in particular to the situation in which impoverished parents in the countries of the South sold their children for adoption by foster-parents in the wealthier countries of the North. In the same context of "demand", the capitalist system had led to the phenomenon of sexual tourism and the attendant growth of child prostitution and pornography.

44. With all due modesty, his delegation felt entitled to assert that Cuba had made considerable progress in promoting the welfare of children, particularly in the fields of education, nutrition and the reduction of infant mortality. According to a 1991 UNICEF survey, only 24 countries had a lower basic infant mortality rate (mortality between the ages of one and five) than Cuba, which was one of the leading three countries of the South in that aspect of public health. Its position in respect of literacy (94 per cent) and completion of primary education (91 per cent), and also in terms of life expectancy (76 years), was in no way inferior to that of the industrialized countries, despite the economic, financial and trade blockade imposed by the United States.

45. Cuba was a party to the Convention on the Rights of the Child, which his Government considered to be an effective instrument in the fight for children's rights that had to be waged. Cuba was also a party to the ILO Convention concerning Minimum Age for Admission to Employment (Convention No. 138) and his Government considered that the exploitation of child labour was an evil that could be dealt with only through adequate national policies and a more just international economic order. To that end, it favoured the adoption of an urgent programme of action since, as stated in the general comments on the draft programme of action, generations of children should not be condemned to exploitation until poverty was overcome.

46. Mr. SWEPSTON (International Labour Organisation) said that, in the past year, ILO had intensified its ongoing work with regard to the protection of children and had also undertaken new initiatives. It was, of course, concerned primarily with the abolition of child labour and the improvement of the situation of young people who did work.

47. ILO welcomed the increased support for the Convention on the Rights of the Child, as demonstrated by the more than 100 ratifications already registered. It had taken part in the discussions leading to the Convention's adoption and had participated in the first meeting of the Committee on the Rights of the Child. There was considerable intersection between ILO standards and the Convention. His organization had identified nearly 60 ILO Conventions that were related to the new United Nations Convention. The first priority was therefore to initiate exchanges of information and to ensure that the supervisory procedures were mutually reinforcing.

48. ILO had noted with interest the considerable attention given in the report of the Special Rapporteur on the sale of children (E/CN.4/1992/55) to the question of child labour, which was closely tied to the sale of children. The extremely important question of debt bondage for children was also mentioned in the report, together with a number of other concerns which ILO shared with the Special Rapporteur, the Working Group on Contemporary Forms of Slavery, the Sub-Commission, the Commission, and the Committee on the Rights of the Child.

49. ILO also noted with interest the report of the Secretary-General on the draft programme of action for the elimination of the exploitation of child labour (E/CN.4/1992/45). It welcomed the United Nations concern in that field and was prepared to continue its active cooperation with any organization that wished to combat the evil of child labour. It also noted the recommendations made to the ILO, which for most part reinforced ILO's commitment to actions already under way.

50. The ILO programmes referred to in paragraphs 81 and 82 of the report drew both on the Organisation's own resources, to reorient and focus its activities so that they might be reintegrated into the regular programme in the most efficient and effective way, and on resources coming primarily from a special grant by the German Government, for which his delegation wished to reiterate its appreciation. Both programmes were focused on finding and applying practical solutions for the elimination of child labour. One example was the intention of ILO to convene a seminar on the elimination of child bonded labour, in close cooperation with the Centre for Human Rights, selected Governments and non-governmental organizations. The seminar was intended to devise practical solutions to the problem and specific proposals for action at the national and international levels. In addition, ILO planned to hold a world congress on the elimination of child labour, probably in November/December 1993.

51. The draft programme of action for the prevention of the sale of children, child prostitution and child pornography involved questions that were examined closely and regularly by ILO's Committee of Experts on the Application of Conventions and Recommendations, as aggravated types of child labour and forced labour. They were among the highest human rights priorities of ILO, and the Working Group on Contemporary Forms of Slavery was informed regularly of the work of the ILO supervisory bodies in that regard.

52. The importance given to the elimination of child labour was amply illustrated by the considerable volume of material on the subject, much of it overlapping or repeating information contained in other documents. It was to be hoped that the Commission would give some thought to the potential for conflict inherent in the multiplicity of activities and that it would be possible to concentrate the efforts of each organization in the system to the greatest possible degree.

53. Ms. KIPP (Observer for Sweden), speaking on behalf of the delegations of Denmark, Finland, Iceland and Norway as well as her own, said that no other human rights instrument had gained such rapid and widespread support as the

Convention on the Rights of the Child, which had entered into force in record time and had already been ratified or acceded to by 109 States. That was convincing testimony of the will to accord high political priority to the world's most precious and vulnerable resource, its children.

54. While children, like all human beings, were protected by international human rights law in general, the Convention had integrated the rights of the child into one document, developing them according to the special needs and interests of children. The great susceptibility of children to abuse and exploitation lent special urgency to the protection and promotion of their rights.

55. The Convention must be viewed as an important supplement to the International Bill of Human Rights. All States parties had undertaken to respect the fundamental principle of the Convention that the individual child, without discrimination, was the bearer of the rights contained in the Convention. The best interests of the child should be a primary consideration in all actions concerning children. In that context, the Nordic countries were seriously concerned that some of the reservations made to the Convention ran counter to its very purpose and they would object to those that were incompatible with the fundamental principles and intention of the Convention.

56. Unfortunately, the increasing number of States parties had not led to a corresponding decrease in the number of alarming reports of violation of the rights of the child. The Nordic countries endorsed the recommendation by the Committee on the Rights of the Child that the technical assistance and advisory services programme of the Centre for Human Rights should be strengthened so as to supply training activities on the national level regarding the implementation of the Convention.

57. The Committee on the Rights of the Child had held its first regular session at Geneva from 30 September to 18 October and, after considering the enormity of its task, had appealed to the General Assembly for further resources so that it could carry out its functions effectively. In the view of the Nordic countries, the United Nations had a clear duty to ensure that the Committee became an effective instrument for the protection and promotion of the rights of the child. It would be a paradox if the very success of the Convention in terms of the number of ratifications and accessions paralysed the Committee's work.

58. In its resolution 46/112, the General Assembly supported the Committee's proposal to organize its work on the basis of two sessions per year and to establish a pre-sessional working group for the preliminary review of reports from States parties. The General Assembly also requested the Secretary-General to consider favourably the possibility of enabling a working group of the whole of the Committee to meet in 1992. However, full funding for that meeting was still not guaranteed. The Nordic countries considered that the additional US\$ 25,000 to cover travel expenses must be made available.

59. The Nordic countries wished to emphasize the fundamental importance of respecting the physical integrity of children, whether street children or those well-established in society. They unequivocally condemned all kinds of

exploitation of children, such as the sale of children, child prostitution and child pornography as well as the exploitation of child labour. Experience had shown that legislation was not in itself sufficient.

60. That point had been made very clear in the report submitted by the Special Rapporteur (E/CN.4/1992/55), whose detailed analysis merited full attention, particularly when he demonstrated how the different forms of exploitation of children were inherently interlinked and transnational. Thus, child prostitution in one country was supported by sex tourism from another. Clearly, efforts to combat the evil must be directed both to the "supply" and the "demand" side of the problem, involving both Governments and the private sector.

61. The Nordic countries endorsed the Special Rapporteur's recommendations indicating the need for a broad range of measures to safeguard the rights of the child. Child prostitution and pornography and the sale of children should be studied also in the context of child labour and child soldiers. If necessary, the mandate of the Special Rapporteur should be amended accordingly.

62. The age-limit in the First Additional Protocol to the 1949 Geneva Conventions and in article 38 of the Convention on the Rights of the Child regarding participation in hostilities should be revised from 15 to 18 years of age.

63. The country studies of the Netherlands and Brazil had proven very useful in providing a firm basis for the Special Rapporteur's recommendations. One example was the need for education and re-education of personnel in the judicial system, particularly law enforcement officials, to make them aware of the obligations imposed by the Convention. The Nordic countries encouraged the Special Rapporteur to pursue his work according to the methodology chosen and to continue his practice of field visits.

64. Directly related to the right of the child to protection of the integrity of his or her body were problems arising from harmful traditional practices affecting girls. In that connection, she referred to article 24 of the Convention, which implied action against female circumcision at the national level, for instance, in terms of legislation, education and information. Moreover, it called for the involvement of the international community.

65. In conclusion, she said that full respect for the provisions of the Convention required a massive effort at the international and national levels by Governments and non-governmental organizations and by the private sector to give priority to the interests of the child.

66. Mr. PALACIOS SERRANO (Observer for Spain) said that children constituted one of the weakest social groups and the one least able to defend itself against the violations of its human rights. For that reason, every society which valued liberty, justice and human dignity should begin by ensuring respect for the rights of its youngest members. It should not be forgotten that children constituted nearly half of the world's population and would be the persons responsible in the future for creating a fairer and more human social order.

67. Since the adoption by the General Assembly in 1959 of the Declaration on the Rights of the Child, the world had changed considerably. The international community had become aware of the importance of the rights of the child and the unanimous adoption of the Convention on the Rights of the Child by the General Assembly constituted a most important step towards its universal acceptance. In that connection, it was heartening that more than 100 countries, including Spain, were already parties to the Convention. His delegation supported the work of the Committee on the Rights of the Child, which was undoubtedly the most appropriate body for the exchange of ideas and the search for solutions within the framework of the Convention.

68. As pointed out by the Special Rapporteur in his report to the Commission (E/CN.4/1992/55), children were the passive subjects of violence in three ways: personal violence in the form of physical or mental damage; domestic violence, as a result of the disintegration of the family; and social violence, inasmuch as the basic living conditions of children were affected. In no other sector of society was there such a clear connection between civil and political rights and economic, social and cultural rights. Although the violation of those rights did not fall exclusively within a given group of countries, they implied the need to adopt socio-economic measures in the fields of education, health, employment, etc., that would make it possible to improve the unfortunate situation of children in many parts of the world.

69. The Commission should take a firm decision to put an end to the murder of street children. Those acts were carried out with impunity because, in the absence of any family or social support, the death of a street child was of no importance to anyone. It was therefore for the international community and the Commission to denounce those dreadful acts and to demand justice on behalf of those children.

70. Of particular concern to his delegation was the painful reality of child pornography and prostitution as well as the sale of children, organ transplantation and exploitation of child labour. The eradication of those practices required firm action at both the national and international levels. However, the responsibility for those practices should not be borne exclusively by those societies which, because of their particularly difficult conditions, might be less inclined to guarantee the protection of some of their children. Equally guilty were those that, although enjoying better material conditions, made possible and in some cases fostered the violation of the essential rights of the child.

71. In conclusion, he wished to make specific reference to children who were victims of terrorism or relatives of victims of terrorism. In both cases, those acts of indiscriminate violence violated the most essential rights of the child and, in particular, the right to become an adult who was physically and psychologically normal, free of hatred or prejudices.

72. Mr. DAVIES (Defence for Children International) said that the time had come for the States parties to the Convention to turn their attention to the difficult task of its implementation. Given the large number of States parties and the broad range of rights recognized in the Convention, the Committee on the Rights of the Child had decided that two regular sessions

per year would be necessary. His organization strongly supported that decision and urged that the Committee should be given all the assistance and support it had requested.

73. Non-governmental organizations had made a concerted effort to provide the Committee with "expert advice" pursuant to article 45 of the Convention. His organization would continue to do its utmost to provide advice and assistance to the Committee and, upon request, to the States parties.

74. UNICEF had made a valuable contribution to the campaign for ratification of the Convention and to the work of the Committee. However, no one United Nations organ had the expertise and resources required. Some United Nations bodies had shown considerable interest in cooperating with the Committee, such as ILO and the World Food Programme. However, other agencies, which had a major impact on the rights of children, such as UNESCO, the World Bank and the International Monetary Fund, had not been represented at the first session of the Committee. It would be useful if the Commission could encourage all relevant United Nations bodies to cooperate fully with the Committee.

75. The reservations entered by some countries to the Convention were so broad and general as to raise doubts as to whether the States concerned had actually become States parties. In that connection, he referred to the reservations entered by Djibouti, Indonesia, Pakistan and Myanmar. Three other States (Afghanistan, Islamic Republic of Iran and Mauritania) had made similar statements when signing the Convention, although they had not yet become parties.

76. The Government of Germany had submitted to the national legislature in 1991 a draft declaration which referred, *inter alia*, to articles 2, 3 and 5 of the Convention. A declaration restricting the scope of those key provisions would be incompatible with the object and purpose of the Convention, and representations to that effect had been made to the Government in question. He understood that some amendments had been made to the draft declaration, which had not yet been deposited.

77. Reservations concerning the Convention as a whole rather than specific articles seriously eroded the competence of the Committee on the Rights of the Child, which would be unable to know within any degree of certainty what provisions of the Convention were affected by the reservations. Whenever the Committee became aware of a practice which it considered incompatible with some provision of the Convention, the State concerned might take the position that it was covered by the reservation and the Committee, the competence of which was limited to the Convention itself, would be unable to form an independent opinion on the State party's own interpretation of the effect of its reservation. Such a situation would seriously prejudice the ability of the Committee to fulfil its monitoring functions.

78. Unless those reservations were withdrawn, it might be necessary to clarify their status before the Committee examined the reports of the States concerned. The Commission should therefore call upon States that had made reservations to the Convention to consider withdrawing them, in particular reservations concerning the Convention as a whole.

79. He noted that, for the past six years, a paragraph calling upon States parties to review their positions regarding reservations to human rights treaties had been included in the Commission's resolutions on the status of the International Covenants on Human Rights. There was no reason to assume that States having entered such reservations could not find other ways of reconciling the paramount principles recognized by their national law with their obligations under the Convention and under international law.
80. Kuwait, for example, had formulated a reservation, when signing the Convention, to "all provisions of the Convention that are incompatible with the laws of the Islamic sharia and the local statutes". The Czech and Slovak Republic had objected that the reservation was incompatible with the object and purpose of the Convention and, at the moment of ratification, it had been replaced by a much narrower reservation affecting only the articles of the Convention concerning nationality and adoption.
81. One article that had been the subject of several reservations or declarations concerned armed conflict. It would be recalled that, during the second reading of the draft Convention in December 1988, one country - the United States of America - had opposed the consensus on raising the minimum age-limit for participation in armed conflict to 17 or 18 years of age. That country, unfortunately, was one of the few which had not only failed to ratify but had not even signed the Convention. There was little doubt that the number of soldiers between 15 and 18 years of age who had died in armed struggle since the adoption of the Convention must have been in the hundreds at least.
82. It would be Utopian to suggest that higher international standards might have saved their lives or spared their suffering. However, he thought that the NGOs which had participated in the drafting of the Convention and most government participants felt deep shame at the knowledge that the Convention they had fashioned condoned the destruction of those young lives. His delegation thus appealed to the States parties to the Convention to give serious consideration to initiating the process for amending the Convention in order to prohibit the recruitment and participation in armed conflict of all children without exception.
83. Mr. SRISODAPOL (Observer for Thailand) said that, in connection with the report submitted by the Special Rapporteur on the sale of children (E/CN.4/1992/55), he wished to draw the Commission's attention to the information submitted by his Government to the Working Group on Contemporary Forms of Slavery at its sixteenth session concerning its views, policies and efforts in addressing the problems of traffic in persons and the prostitution of children.
84. In the case of prostitution, the problem was compounded by international factors whereby women and children were constantly victimized by syndicates, the networks and operations of which transcended national boundaries, in order to satisfy international demand. In Thailand, for example, Thai and Western mass media had reported cases involving foreigners who had organized "sex tours" in Thailand for foreign tourists to gratify their sexual fantasies through the exploitation of women and children from Thailand, from countries

within the region, and from as far afield as Europe and Latin America. Those tours had given his Government cause for further concern in view of the spread of AIDS within the country. A number of Thai women had, moreover, been lured into prostitution in other countries.

85. All of those problems had been alluded to by representatives of non-governmental organizations, whose continued vigilance, directed against transnational organizations of the sex trade and the foreign demanders of sexual gratification, was a welcome trend towards greater objectivity in the consideration of that worldwide problem.

86. Despite the progress made in economic development and the relatively high rate of literacy in his country, problems associated with child labour and prostitution persisted because of a host of socio-economic factors, including poverty, inadequate education and the break-up of the family unit due to internal migration.

87. Attempts had been made to solve the problems of child labour and prostitution in Thailand through legislative action, law enforcement activities and a variety of socially oriented programmes. Successive Thai Governments had increasingly sought and received cooperation from local and foreign non-governmental organizations, the private sector and the media in combating those problems and raising public awareness of the issues involved.

88. His Government was also implementing long-term measures aimed at increasing access to education, reviewing the minimum employment age and protecting child labour. It had also undertaken to adopt policies to ensure a more equitable distribution of income, particularly in rural areas and to devise job creation programmes.

89. In conclusion, his delegation expressed its support for the Special Rapporteur's recommendation that strategies to tackle the problems of sale of children, child prostitution and child pornography should be multidisciplinary, interconnected and integrated. His delegation would bring the report to the attention of his country's appropriate authorities for their careful consideration.

90. Mr. MANCHAI (International Federation of Social Workers) said that the Centre for the Protection of Children's Rights (CPCR), based in Bangkok, Thailand, was a non-governmental organization providing protection, temporary shelter, child welfare, rehabilitation and legal advocacy for children up to 16 years of age whose rights had been violated.

91. He gave as an example the case of a rescue operation in which CPCR had been asked by the Crime Suppression Division Police to take care of a 13 year old girl rescued from a brothel. The girl's family had been deceived into handing her over to an agent who had later sold the child to the brothel. As a result of the information supplied by that girl, the three persons operating the brothel had been arrested and 11 other girls under the age of 16 had been taken to CPCR's rehabilitation home. All of them had been detained and forced into prostitution by beatings and ill-treatment. Of the 12 girls, 11 were found to be HIV-positive. Subsequently, three more agents were arrested and evidence uncovered showing that the local police had profited from the business.

92. Some 70 per cent of the girls rescued by CPCR came from the north of Thailand, particularly from the hill tribes of that region. As preventive measures, CPCR had organized education and training programmes for the girls from various hill tribes in the north. It also organized visits to and information campaigns in the area. Local radio programmes in the dialects of the ethnic minorities had been used to disseminate information on child prostitution and AIDS to 40 target villages.

93. Since 1989, 24.9 per cent of the girls rescued by CPCR had tested HIV-positive. The Centre treated the infected children with special care and understanding and, with the support of a special medical team from the hospital, a counselling programme had been organized.

94. The rapid growth of the child prostitution industry in Thailand meant that young girls were being brought there from the neighbouring countries of Burma, China and Laos. It was a practice that was growing at an alarming rate. Owing to language and culture differences, those girls were particularly scared and vulnerable. Due to the appalling human rights situation in Burma and the lack of non-governmental organizations there, it was left to the organizations in Thailand to help the Burmese girls. There had been allegations that HIV-positive girls repatriated directly to Burma by the police might face execution.

95. There was also trafficking in children between Thailand and Yunnan province in southern China. CPCR provided temporary shelter and counselling for Chinese girls who had been rescued, and worked with the Chinese Embassy to arrange for the girls' repatriation. The Centre had visited some families in China and had met the local Chinese authorities in Yunnan. They had been invited to come and see the work of CPCR and had accepted the invitation.

96. CPCR called upon governmental and non-governmental bodies alike in the countries where child prostitution was a problem to undertake joint research, exchange information and work together closely in order to eradicate the trafficking of children and prostitution rackets across borders.

97. Mrs. RUESTA DE FURTER (Venezuela) said that the report of the Sub-Commission's Working Group on Contemporary Forms of Slavery on its sixteenth session (E/CN.4/Sub.2/1991/41 and Corr.1) contained some valuable material relevant to the current agenda item. The Commission had before it two of the recommendations made by the Working Group: a draft programme of action for the prevention of the sale of children, child prostitution and child pornography, and a programme of action for the eradication of the exploitation of child labour. Her delegation was a sponsor of the resolution corresponding to those recommendations and hoped that it would be adopted by consensus.

98. The report submitted by the Special Rapporteur on the sale of children (E/CN.4/1992/55) showed that the phenomenon of the sale of children was far more widespread than might appear at first glance. Her delegation particularly appreciated the approach to "supply and demand" and the "pluridisciplinary approach" in the report. It also agreed with the broad interpretation of sale of children to include the traffic in children.

99. The chapter on adoption for commercial purposes was to be particularly welcomed since, in an adoption in which profit was more important than the interests of the child, the child suffered greatly and violations of fundamental human rights could result. Unfortunately, article 21 of the Convention on the Rights of the Child on the subject of adoption had never been revised, as suggested by the Sub-Commission, and was open to many different interpretations.

100. Her delegation had also appreciated the approach of the chapter on the exploitation of child labour and the attention given to the extremely serious problem of organ transplantation and other forms of the sale of children.

101. With regard to child soldiers, her Government agreed with the Special Rapporteur that article 38 of the Convention on the Rights of the Child should be amended to raise the threshold age for recruitment into the armed forces from 15 to 18.

102. The chapters on child prostitution and child pornography were of immense importance. In that connection, the draft programme of action prepared by the Working Group on Contemporary Forms of Slavery was of particular relevance. The Special Rapporteur had, quite rightly, pointed out that child pornography had acquired critical importance since the problem had been transnationalized and had become a multimillion dollar business.

103. Her delegation thought that all the ideas contained in the report and its observations and recommendations could well be discussed by the Special Rapporteur with members of the Working Group on Contemporary Forms of Slavery. Consequently, her delegation was in favour of extending the mandate of the Special Rapporteur and making a formal request to the Secretary-General that he should invite the Special Rapporteur to take part in the work of the Working Group.

104. With regard to the status of the Convention on the Rights of the Child, her delegation had been pleased to note the number of countries which had ratified the Convention so rapidly. However, it wished to express its concern about certain reservations which, it thought, might distort the aim of the Convention, in particular reservations to that part of article 37 which prohibited torture, the death penalty and imprisonment.

105. Her delegation hoped that, at a future meeting of the States party to the Convention, article 21 would be the subject of a considered review, since its subsections B and C could make the child the object of trade and that was unacceptable. It also hoped that the minimum age for military recruitment (article 38) could be raised to 18 years, to bring it into line with the provisions of other international standards.

106. She agreed with several preceding speakers that a Committee of 10 persons was not sufficient as a mechanism for implementing the Convention on the Rights of the Child. An appropriate review of the various legal systems in those countries which had ratified the Convention clearly required a greater number of experts per region. The implementation machinery for the International Covenant on Civil and Political Rights might serve as an example.

107. For the sake of good order, that part of article 27 of the Convention which defined the best interests of the child should, in any future revision of the Convention, be transferred to article 3, where it was stipulated that the best interest of the child should always be paramount in implementing the Convention.

108. Mr. PEREZ (International Association of Educators for World Peace) said that the international community was particularly outraged when the rights of a child were violated. When a child was denied its rights, it became the concern of mankind in general and the Commission in particular. Articles 9 and 10 of the Convention on the Rights of the Child stressed the importance of keeping families together. For that reason, he appealed to the Commission and to the international community for help to remedy the tragic situation of his own two children, aged 4 and 9, who were being held hostage by the Government of Cuba in order to punish him. Although his wife and children had never criticized the Government and had no political affiliations, they had been denied exit visas to join him where he was living.

109. Moreover, in contravention of both the spirit and the letter of article 14 of the Convention, his children were being indoctrinated by the educational system of the country in which they lived.

110. On behalf of all other children held hostage by the Cuban authorities because of the actions of their parents, he appealed to the Commission to recognize the right of all children to be truly free and live with their families. Finally, he wished to refer to the statement made to the Commission on the subject of children by Mrs. Castro, member of the Council of State of the Republic of Cuba and Chairperson of the Committee on Women's and Youth Affairs of the National Assembly of People's Power and wife of the man who was holding his own children as hostages

111. Mr. ALFONSO MARTINEZ (Cuba), speaking on a point of order, said that the speaker should confine himself to the agenda item under consideration.

112. Mr. PEREZ (International Association of Educators for World Peace) said that Mrs. Castro had appealed to the international community to resolve problems concerning the family, women and children. It was a great pity that her words were not reflected in the factual situation in Cuba.

The meeting rose at 1 p.m.



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/1992/SR.50
6 April 1992

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Forty-eighth session

SUMMARY RECORD OF THE 50th MEETING
(FIRST PART*)

Held at the Palais des Nations, Geneva,
on Monday, 2 March 1992, at 3 p.m.

<u>Chairman:</u>	Mr. SOLT	(Hungary)
later:	Mr. ENNACEUR	(Tunisia)

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Election of members of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

* The summary records of the second and third parts of the meeting appear as documents E/CN.4/1992/SR.50/Add.1 and 2.

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Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

CONTENTS (continued)

Rights of the child, including:

- (a) Status of the Convention on the Rights of the Child
- (b) Report of the Special Rapporteur on the sale of children
- (c) Programme of action for the elimination of the exploitation of child labour
- (d) Draft programme of action for the prevention of the sale of children, child prostitution and child pornography (continued)

Measures to improve the situation and ensure the human rights and dignity of all migrant workers

Advisory services in the field of human rights (continued)

The meeting was called to order at 3.20 p.m.

ELECTION OF MEMBERS OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES (agenda item 23) (E/CN.4/1992/56 and Add.1 to 5)

1. The CHAIRMAN said that the Secretary-General's Note (E/CN.4/1992/56 and Add.1 to 5) contained nominations of candidates of member States to the Sub-Commission and biographical data of candidates. The Commission was invited to elect 13 members of the Sub-Commission and, where necessary, their alternates in accordance with the following pattern: four members from African States; three members from Asian States; two members from Eastern European States; two members from Latin American States; and three members from Western European and other States. The number of candidates from each regional group should not exceed the number of places allotted to that group. If it did, the ballot of the member State in question would not be valid. On the other hand, should there be fewer candidates than places to be filled, article 67 of the Commission's rules of procedure stated that those candidates obtaining in the first ballot a majority of the votes cast and the largest number votes would be elected. If the number of candidates obtaining such majority was less than the number of places to be filled, additional ballots would be held to fill the remaining places.

2. At the invitation of the Chairman, Mr. Walker (Australia), Vice-Chairman of the Commission, and Mrs. Galvis (Colombia), Rapporteur, acted as tellers.

3. A vote was taken by a secret ballot.

<u>Number ballot papers:</u>	52
<u>Invalid ballots:</u>	zero
<u>Number of valid ballots:</u>	52
<u>Abstentions:</u>	zero
<u>Required majority:</u>	27

The results were the following:

AFRICA

<u>Candidate</u>	<u>Member State</u>	<u>Number of votes obtained</u>
Mr. Léonard Assira Engoute	Cameroon	10
Mrs. Yolande Bouah-Tano	Côte d'Ivoire	11
Mr. Ahmed Khalifa	Egypt	37
Mr. Fisseha Yimer	Ethiopia	32
Mrs. Halima Embarek Warzazi	Morocco	38
Mrs. Mohamane Fassoma	Niger	5
Mr. Aidid Abdillai Ilkahanaf	Somalia	29
Mr. Saïd Naceur Ramadhane	Tunisia	34

4. Mr. Khalifa and his alternate Mr. Khalil (Egypt), Mr. Yimer (Ethiopia), Mrs. Warzazi and her alternate Mr. Benkaddour (Morocco) and Mr. Naceur Ramadhane and his alternate Mr. Amor (Tunisia), having obtained the required majority, were elected members of the Sub-Commission for a term of four years.

ASIA

<u>Candidate</u>	<u>Member State</u>	<u>Number of votes obtained</u>
Mr. Muksum-Ul-Hakim	Bangladesh	30
Mr. Abass Safarian	Iran	17
Mr. Ribot Hatano	Japan	41
Mr. Osman El-Hajje	Lebanon	13

5. Mr. Muksum-Ul-Hakim and his alternate Mr. Hossain Khan (Bangladesh) and Mr. Hatano and his alternate Mr. Yokota (Japan), having obtained the required majority, were elected members of the Sub-Commission for a term of four years.

EASTERN EUROPE

<u>Candidate</u>	<u>Member State</u>	<u>Number of votes obtained</u>
Mr. Gáspár Bíró	Hungary	26
Mrs. Anna Michalska	Poland	22
Mr. Ioan Maxim	Romania	30
Mr. Volodymyr Boutkevitch	Ukraine	19

6. Mr. Maxim and his alternate Mr. Gavrilesescu (Romania), having obtained the required majority, was elected member of the Sub-Commission for a term of four years.

LATIN AMERICA

<u>Candidate</u>	<u>Member State</u>	<u>Number of votes obtained</u>
Mrs. Clemencia Forero Ucros	Colombia	38
Mrs. Elizabeth Odio-Benito	Costa Rica	15
Mr. Miguel J. Alfonso Martinez	Cuba	35
Mr. Cesar Verduga	Ecuador	12

7. Mrs. Forero Ucros and her alternate Mr. Melo (Colombia) and Mr. Alfonso Martinez and his alternate Mrs. Ferriol Echevarria, having obtained the required majority, were elected members of the Sub-Commission for a term of four years.

WESTERN EUROPE

<u>Candidate</u>	<u>Member State</u>	<u>Number of votes obtained</u>
Mr. Marc Bossuyt	Belgium	45
Mr. Asbjorn	Norway	41
Mrs. Linda Chavez	United States	41

8. Mr. Bossuyt and his alternate Mr. Genot (Belgium), Mr. Eide and his alternate Mr. Helgesen (Norway) and Mrs. Chavez and her alternate Mr. Portman (United States of America), having obtained the required majority, were elected members of the Sub-Commission for a term of four years.

9. A second vote was taken by secret ballot to elect the second of the members of the Sub-Commission from Eastern Europe.

Number of ballot papers: 52
Invalid ballots: 2
Number of ballots: 50
Abstentions: zero
Required majority: 27

The results were the following:

<u>Candidate</u>	<u>Member State</u>	<u>Number of votes obtained</u>
Mr. Gáspár Bíró	Hungary	20
Mrs. Anna Michalska	Poland	17
Mr. Volodymyr Boutkevitch	Ukraine	12

10. None of the candidates having obtained the required majority, a third vote was taken by secret ballot.

Number of ballot papers: 50
Invalid ballots: 1
Number of ballots: 49
Abstentions: 2
Required majority: 26

The results were the following:

<u>Candidate</u>	<u>Member State</u>	<u>Number of votes obtained</u>
Mr. Gáspár Bíró	Hungary	15
Mrs. Anna Michalska	Poland	17
Mr. Volodymyr Boutkevitch	Ukraine	15

11. None of the candidates having obtained the required majority, a fourth vote will be taken by secret ballot subsequently.

RIGHTS OF THE CHILD, INCLUDING:

- (a) STATUS OF THE CONVENTION ON THE RIGHTS OF THE CHILD
- (b) REPORT OF THE SPECIAL RAPPOREUR ON THE SALE OF CHILDREN
- (c) PROGRAMME OF ACTION FOR THE ELIMINATION OF THE EXPLOITATION OF CHILD LABOUR
- (d) DRAFT PROGRAMME OF ACTION FOR THE PREVENTION OF THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY (agenda item 22) (continued)

(E/CN.4/1992/45, 54, 55 and Add.1, 71, 74; E/CN.4/1992/NGO/5, NGO/14, NGO/32, E/CN.4/1991/51, 41 and Corr.1; CRC/C/7)

12. Mrs. MARTINEZ (Latin American Federation of Associations of Relatives of Disappeared Detainees) observed that, in his report on the status of the Convention on the Rights of the Child (E/CN.4/1992/54), the Secretary-General

had indicated which States had signed, ratified or acceded to the Convention, announced the establishment of the Committee on the Rights of the Child to monitor the Convention, and appealed to States, United Nations bodies and intergovernmental and non-governmental organizations to disseminate information on the Convention and promote its understanding. Those were important developments, and yet the gulf between theory and practice was still great.

13. In Argentina, for example, and to a lesser extent in Chile and Uruguay, the disappearance of children constituted part of the military dictatorship's plan for the repression of opponents. The Argentine Government should make public the documents of the previous regime concerning the repression of the Argentine people and of the many persons of various nationalities who lived in Argentina. In Columbia, two children had been missing since 1982 and two others since the beginning of 1991. The press had also reported the abduction of children in 1991 for purposes of ransom, particularly in Bogotá, and nothing had been done for the orphans whose parents had been abducted, detained or summarily executed. In Guatemala, there were some 250,000 children in that situation, their fundamental rights having been flouted. In Peru, according to the Committee of Relatives of Disappeared Detainees who had taken refuge in Lima, hundreds of children had been abducted and executed, and thousands more were said to be orphans. In the circumstances it was difficult to understand how the President of Peru could have opposed the transfer to the so-called "glass of milk" programme of the \$100 million provided for that purpose in the national budget, since the fate of future generations was at stake. In El Salvador as well, thousands of children had been abducted, wounded or murdered, or yet were orphans as a result of the armed conflict being waged there. It was to be hoped that the recently-concluded peace agreement would have the effect of improving their lot. In Haiti, the coup d'état had aggravated the situation of children, many of whom were going hungry or were orphans. The international community should support that country's return to democracy and establish the cooperation that was necessary to protect Haitian children.

14. In Turkey, Kurdish children were living a downright tragedy to which the Association for the Support of Kurdistan Detainees and Martyrs wished to draw attention. In ratifying the Convention on the Rights of the Child, Turkey had entered reservations to articles 17, 19 and 30 which expressly concerned Kurdish children. Notwithstanding the recent statements of the authorities, the existence of a Kurdish people was still not recognized there. In November 1991 a child of 10 had been arrested and beaten by the police simply because the colours of the clothes he was wearing were those of the Kurdish national colours. Nor was it possible any longer to remain indifferent to the suffering caused to children by the economic blockade imposed on Cuba and Iraq. It was impossible to forget that the neo-liberal economic policies imposed by the countries of the North on those of the South and the demands of the International Monetary Fund aggravated major socio-economic problems with all their implications for children. It was time that Governments which religiously repaid their external debt should begin to pay off the domestic debt they had incurred to their people and particularly their children.

15. Mrs. AHMED (General Federation of Arab Women) said that the Federation subscribed to the documents before the Commission concerning the status of the Convention on the Rights of the Child, the programme of action for the elimination of the exploitation of child labour and the question of the sale of children. The Federation was trying, through its national bodies, to persuade countries to accede to the Convention and apply its provisions. For its part, the Committee on the Rights of the Child had rightly emphasized at its first session that priority should be accorded to the rights of the child at the World Conference on Human Rights in 1993. The Federation was also very interested in the programme of action for the elimination of the exploitation of child labour, which was designed to curb a practice that was only too common in the developing countries, and particularly in certain Arab countries.

16. The fundamental rights of children in Arab countries were violated in three ways. First, the Israeli occupation of Palestine and the occupied Arab territories had resulted in hundreds of victims among children. Many pregnant women had also had abortions owing to the ill-treatment they had experienced. Since primary schools were closed in those territories, children were deprived of their fundamental right to education. Secondly, economic underdevelopment and political instability gave rise to other abuses. According to statistics published by the United Nations in 1990, the infantile mortality rate had risen to 132 per 1,000 in Somalia, 177 per 1,000 in Djibouti and 108 per 1,000 in Sudan since 1987. It was not enough for a country to accede to a convention; it must apply it as well. The international community should therefore assist the developing countries. Thirdly, the international community sometimes imposed economic sanctions on certain countries, such as Iraq, which had been experiencing an economic blockade since August 1990 and was suffering the consequences of the war waged by the coalition countries. The infantile mortality rate in Iraq had increased by 350 per cent between 1990 and 1991.

17. In the light of those figures, the Federation called upon the international community to do whatever was necessary to improve the living conditions of Arab children throughout the world, and urged the Arab States to respect the commitments they had assumed at the international level.

18. Mr. de SAUSSURE (Foundation for the Rights of the Family - PRODEFA), also speaking on behalf of the International Organization for the Development of Freedom of Education (OIDEF) and the World Movement of Mothers, was pleased to note that the Convention on the Rights of the Child had already been ratified by a large number of countries and that the first meeting of the Committee on the Rights of the Child had already taken place. He recalled that, on the occasion of the World Summit for Children, the vital role of the family in the harmonious development of the child had been emphasized as well as the need for social bodies to respect and support the family. He also recalled that the international community had declared 1994 to be the International Year of the Family with the declared objective of making Governments, officials and the public understand that the family was the natural and basic unit of society.

19. He noted, however, that the international community's declaration had not been followed up by national decision-making bodies, that family units were breaking up at an even faster rate, and that it was high time for Governments

to take the bold specific decisions that were necessary. Although the family was the most prized possession of young persons in a number of countries, it had been denigrated by certain ideologists in the western world, and he explained that his organization, together with others, had thought of drafting a universal declaration of the rights of the family, which would include the right to true assistance from the authorities - mainly for families in a difficult situation - the right to protection against any violation of its private nature, the right to a generous and caring social policy and, for children in difficult situations, the right to special attention and the protection of their rights. He accordingly called upon the Commission to consider the possibility of a declaration of that nature, and requested Governments to make specific efforts in three areas, namely, greater protection for the family, namely, in respect of family allowances and maternity leave; special attention to problems encountered by women, namely, in the training and education of mothers, as well as the problems of those who chose to remain at home to bring up their children; and the participation of parents in the elaboration of educational strategies, particularly in the western countries, the State's role being limited to guaranteeing freedoms and equality of opportunity. The family should be protected since a society without families would become a monstrous society, unfeeling and unhappy, and one that PRODEFA would not wish upon its children.

20. Mr. RYDER (International Confederation of Free Trade Unions) said that ICFTU, which was gratified that the Convention on the Rights of the Child had entered into force in September 1990, noted that the International Labour Organisation (ILO) and the Commission on Human Rights had both embarked upon activities to promote the application of its provisions concerning the elimination of child labour, which was of particular interest. ICFTU expected much from the cooperation established between ILO and the Commission. Indeed, article 32 of the Convention, dealing with the protection of the child against exploitation, was compatible with relevant ILO instruments on the same subject which specified a general minimum age.

21. Unfortunately, that objective on which there was unanimity in the international community was still very remote, for the present reality was the massive presence of children at work, and there was a broad consensus that their number, which was difficult to estimate but in any event high, was still growing. Yet the figures were simply the quantitative reflection of the situation and failed to suggest the suffering endured by those children who worked not out of free choice but under forms of duress amounting to slavery. The international trade union movement, which hoped to eradicate that evil, often encountered the argument that child labour amounted to an inevitable and necessary survival strategy in present circumstances, and that it would be better to regulate it until such time as it could be eliminated. He challenged that view, although he recognized that child labour would last as long as poverty persisted. That fact, however, did not justify the rejection of programmes for the elimination of child labour. Indeed, it had to be recognized that child labour was totally ineffective as a strategy in combating poverty and promoting development. Trade unions realized that, while children worked, their parents were unemployed and that people spent their adult lives in idle poverty and their childhoods in debilitating, deforming and degrading labour. The only logic behind such situations was the

logic of exploitation. There was no denying the fact that large numbers of people were not only ready to tolerate - but also to profit from - child labour.

22. ICFTU was trying to identify the exploitative relationships that were often the characteristic of child labour. In some cases they were quite clear, as in the case of the "restaveks" of Haiti, namely, children who were sold to work in domestic service and treated very harshly, or the children employed in Peruvian gold mines, many of whose bodies had been found in 1991 bearing marks indicating the harshness of their living conditions. He also mentioned the cases of Thailand and India, and noted that the latter, which could put an end to the exploitation of child labour simply by applying the legislation in force, was in fact the single largest national employer of children. But rather than dwelling on national situations, it was probably more useful to emphasize the international dimension of the problem. For example, a footwear manufacturing network connected Pakistan, where children manufactured the uppers, to Italy where the shoes were assembled and sold as "crafted in Italy". In that type of situation, it was for GATT to take action by introducing a social clause into international trading arrangements that would have the effect of denying market access to the products of child labour, which was one of the most pernicious forms of child exploitation.

23. The international community should also consider what pressures it could itself exert with its debt relief and structural adjustment programmes which, applied at the cost of social programmes and particularly access to education, were driving children into the world of work. The fact that the growth of the informal sector usually accompanied structural adjustment, that child labour often constituted a significant component of the unprotected informal workforce, and that some decision makers had set the promotion of the informal sector as an explicit objective, aroused further concern among trade unionists who realized that there was a strong current which, inadvertently or not, was tending to increase child labour rather than eliminate it. He was nevertheless sure that, like all trade unionists, participants in the Commission's session would endeavour to attain the basic goal which was trade unionists at work and children in school and at play.

24. Mr. URRUELA PRADO (Observer for Guatemala), speaking in exercise of the right of reply, noted that the International Association for the Defence of Religious Liberty had referred to Guatemala's "street children" in such a way as to suggest that it was badly informed about the initiatives taken in 1991 by the new Government to solve that problem. He explained that the Guatemalan Government had first mobilized the police itself, the public procurator's office, agencies responsible for the coordination of legal matters relating to minors and the specialized agencies subordinate to the President's Office, and had then established direct and close relations with the "Casa Alianza" organization which was dedicated to the protection and defence of children. Mr. Jorge Serrano, President of the Republic, had himself visited that non-governmental organization's headquarters in New York, and his visit had resulted in the signature of a cooperation agreement for the protection of "street children" and unprotected minors who were in an irregular situation. Under that agreement, Casa Alianza assisted the Procurator-General by

notifying any cases of minors who were victims of violence that came to its knowledge, and in return the Procurator-General's Office provided Casa Alianza with the legal support it needed to attain its goals.

25. Casa Alianza's Legal Aid Office and the Government Procurator's Office's agency for minors had, on 31 December 1991, published a joint report on the offences committed against "street children". The report discussed the problems encountered by such children, identified the causes of the evil and described the present situation. It mentioned the 36 cases brought for the violation of the rights of "street children" and the improvement in the behaviour of national police officers towards minors in an irregular situation, notwithstanding a few isolated cases of abusive detention in police premises that could be attributed essentially to ignorance of the law.

26. That report had been issued as an official document of the Commission (E/CN.4/1992/80) and was therefore available to participants who would find in it reliable figures of offences committed against street children as well as a description of the Government's policy. He urged the International Association for the Defence of Religious Liberty to acquaint itself with the document.

27. Mr. ERKMENOGU (Observer for Turkey), speaking in the exercise of the right of reply, said that the World Organization against Torture and Centre Europe-Tiers monde had alleged that Turkey had violated children's rights, and noted that, in drawing attention to the abuses to which children had been subjected, those organizations had failed to mention the children who had lost their lives as a result of attacks by PKK (Kurdistan Workers' Party) terrorists or the desperate plight of people, including children, who had fled to southern Turkey to escape the atrocities committed against them in northern Iraq. Those two examples alone demonstrated how those organizations had presented a particularly sensitive issue in order to serve their narrow aims. He suggested that those organizations, which had referred to the Helsinki Watch report, should obtain his country's reply from the Turkish delegation.

28. In Turkey, as elsewhere, children were considered to be the future of the country and society made every effort to educate and bring them up as best it could. Any mistreatment of children aroused public indignation, and those responsible were prosecuted. Also as elsewhere, family bonds were the best guarantee of a child's welfare; unfortunately in Turkey, urbanization and the increasing exodus from rural areas had, together with financial difficulties, impaired the family structure and a small number of children were not taken good care of. The problem was therefore basically one of economic development rather than human rights; the non-governmental organizations were aware of the situation. Nor could they be unaware of the fact that it was an extremely serious matter to accuse a country of allowing its children to be tortured, and he wondered whether they had not distorted the problem for political reasons. It was obviously very easy to slander a country by making accusations of that kind in order to discredit it and subsequently exploit its tarnished image. Massacres of Jews in Europe had, for example, been preceded by rumours of their alleged ritual murder of children. Racism took many forms, all more or less conforming to the same pattern, and neo-racism was apparently not more imaginative.

29. Mr. BENHIMA (Observer for Morocco), speaking in exercise of the right of reply, said that once again the Centre Europe-Tiers monde (CETIM), doing the bidding of its masters, had used unfounded information to launch a tendentious campaign against Morocco. CETIM had come up with a strange hotch-potch of ideas and lies in order to divert attention from the situation of the original population of Sahara who were being held against their wishes in Polisario camps at Tindouf.

30. The situation of children was given priority in all Morocco's socio-economic programmes. As a result of an immense effort based on international solidarity, health and education infrastructures had, since 1976, been created throughout the country and particularly in the Saharan provinces. In point of fact it was in the Polisario camps that families were systematically separated so that persons from the Sahara could not return to their homes. The accounts of former Polisario officials who were reaching Morocco by the dozen had revealed what the situation was. Associations had recently been created in Europe to work for the reunification of Sahrawi families detained by Polisario. A complete file on the conditions surrounding the abduction of those families was available to delegations and the non-governmental organizations.

31. He appealed to those organizations to show restraint so as not to disrupt the referendum process that was under way pursuant to Security Council resolution 725 (1991), in which the Council expressed support for the Secretary-General's efforts and welcomed with satisfaction his report (S/23299). The Council would shortly consider a further report by the Secretary-General.

MEASURES TO IMPROVE THE SITUATION AND ENSURE THE HUMAN RIGHTS AND DIGNITY OF ALL MIGRANT WORKERS (agenda item 13) (E/CN.4/1992/38)

32. Mr. MARTENSON (Under-Secretary-General for Human Rights), introducing the item, said that safeguarding the fundamental human rights of migrant workers and their families remained a priority concern of the United Nations and a continuing challenge for all Member States. Although those workers contributed substantially to the development of society as a whole the deplorable conditions in which they lived and worked were usually overlooked. Moreover, the growing economic disparity between the developed and developing countries and the dramatic changes taking place in the world had given rise to new migratory flows. New human rights problems had also emerged and been exacerbated by resurgent nationalism and xenophobia in many parts of the world.

33. He recalled that the Secretary-General had drawn attention to the situation of migrant workers in the framework of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination. A study on the effects of racial discrimination in the fields of education, training and employment as it affected the children of minorities, and in particular those of migrant workers, would be published later in the year. It was also hoped that sufficient funds would be available to undertake a global survey of the extent to which the children of migrant workers were able to receive education in their mother tongue. The General Assembly's adoption, in 1990, of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families had been a milestone for that highly

vulnerable group, since it constituted the first general reference framework and the first standard for the elaboration of bilateral and multilateral agreements in that sphere. But it was regrettable, as indicated by the Secretary-General in his report (E/CN.4/1992/38), that the Convention had so far been signed by only two countries, and a human rights fact sheet on the situation of migrant workers and their families was to be prepared in order to promote greater awareness of it. It was also planned to draw attention to the Convention in the context of country projects organized through the advisory services and technical assistance programme. The Convention should enter into force as soon as possible so that the situation of migrant workers and their families could be improved and their fundamental rights, namely, the rights to life and to work in dignity and equality, could be respected.

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 19) (*continued*)
(E/CN.4/1992/49, 50 and Add.1, 51 and 69; E/CN.4/1992/NGO/20 and 36)

34. Mr. RODRIGUEZ ALPIZAR (Costa Rica) noted with regret that, according to Mr. Volio-Jiménez's latest report on the human rights situation in Equatorial Guinea (E/CN.4/1992/51), no progress had been made in that country. Everything indicated a lack of political will genuinely to establish the rule of law, since the democratic reforms announced by the present authorities had never been applied. In point of fact, the machinery set up by President Obiang to provide a semblance of credibility for his democratization promises was simply a facade behind which he had set about eliminating various opposition groups or leaders. The few measures adopted by the authorities were inadequate and did not correspond to their main objective, which was to ensure progress towards a democratic and multiparty system that would ensure respect for the dignity of the individual. In practice, arbitrary detention and torture in prisons had continued unchecked, the right to freedom of opinion or religion was not respected, the independence of the judiciary was a myth, law and order and internal security were the responsibility of the army which committed serious violations of the most elementary rights, the right to habeas corpus or amparo was not guaranteed, the cult of personality in the person of President Obiang had attained dangerous levels, and corruption was widely practised with the tacit consent of all the authorities.

35. His delegation wholeheartedly supported the Special Rapporteur's conclusions. It was vital that the Government of Equatorial Guinea should apply the new plan of action proposed by Mr. Volio-Jiménez to demonstrate its will to put an end to the country's alarming situation if it did not wish the international community to adopt more radical measures against it. The international community must also take concerted action to bring about a real change in the human rights situation in Equatorial Guinea, and the Commission on Human Rights should accord high priority to that question. His delegation considered that the Special Rapporteur's mandate should be modified, since it was no longer possible to remain indifferent to systematic and continuing violations of human rights in that country.

36. Mr. DOBREV (Bulgaria) said that the programme of advisory services and technical assistance in the field of human rights was of particular importance at the present time since a number of countries, including Bulgaria, which were in a democratic transition period needed the assistance of experts to carry out legislative reforms and train the key personnel necessary for the

effective utilization of human rights in accordance with international standards. Advisory services were also an integral part of international cooperation, helped to strengthen confidence between peoples and States and promoted exchanges of human values. The Secretary-General's interesting and detailed report on the subject (E/CN.4/1992/49) revealed that the Centre for Human Rights was playing an extremely valuable role in the attainment of those objectives and indicated that the number of countries, one of which was Bulgaria, receiving advisory and technical assistance was growing.

37. In 1991, for example, the Centre had organized a conference on human rights and the elaboration of constitutional and legislative provisions in Sofia, as well as a Seminar on the legal aspects of the refugee problem in collaboration with the Bulgarian authorities and the United Nations High Commissioner for Refugees (UNHCR). Bulgarian experts had also participated in seminars on various aspects of human rights organized by the Centre in other countries. Moreover, in June 1991, his Government and Mr. Martenson also signed a technical cooperation agreement with a view to the publication in Bulgarian of a collection of international instruments and a handbook for the teaching of human rights in schools. Moreover, since the end of 1991, Bulgarian television had produced and broadcast a number of programmes on the activities and functioning of the Centre and various United Nations organs dealing with human rights, as well as on the preparations being made for the World Conference. The keen interest aroused by those programmes revealed the undeniable success of cooperation with the Centre which should continue on topics connected with the Conference itself.

38. Bulgaria also supported the idea of establishing national human rights documentation and training centres in various countries and had already indicated that it was prepared to have an office of the Centre for Human Rights opened in Sofia. It supported the Centre's efforts to increase the effectiveness of fellowship and training programmes which had proved their worth, particularly for countries where the introduction of legislative reforms required the assistance of experts. The Centre's assistance to countries could also have a very positive impact on the quality of the periodic reports prepared and submitted by Governments to United Nations monitoring bodies, as Bulgaria itself had realized. His delegation also emphasized the value of the advisory services programme aimed at including human rights teaching in school curricula. It welcomed the Centre's efforts to prepare, in cooperation with UNESCO, a handbook on the teaching of human rights to be used in higher education and noted that, since November 1991, optional human rights courses, in which increasing interest was being shown, were offered at the University of Sofia.

39. His delegation therefore associated itself with all those who had emphasized the need to increase the financial and human resources available to the Centre for Human Rights. It was convinced that cooperation in human rights matters, which was well illustrated by the success of the advisory services, would stimulate the democratization process taking place in various regions of the world to the greatest extent possible.

40. Mr. NORTHERN (United States of America) said that although it was clear that there could be no compromise as far as human rights violations were concerned, the United States Government understood the difficulties faced by

many countries and was therefore prepared to help those Governments committed to human rights to move ahead. The cold war was over, the ideological wall between East and West had crumbled and would not be replaced by another between North and South. The real division in the world today was between those committed to democracy and liberty and those who were not. That was a fact, however much it might be deplored by dictators and tyrants. All those who would be counted among the ranks of the free and democratic countries and who earnestly sought to implement the principles contained in the Universal Declaration could be assured of the cooperation of the United States, which was already actively supporting nascent democracies that had emerged in regions where few had thought it possible just a few years previously. The democratic revolution that had swept the world from Eastern Europe and the former Soviet Union to Latin America and Africa, where many dictatorships had been replaced by democratic regimes determined to respect human rights, would continue. It was for the Commission to contribute to the success of that revolution not only by calling to account those who would resist the tide but also by affirmatively helping those riding the crest of the wave.

41. The Centre for Human Rights could, through its programme of advisory services and technical cooperation in the field of human rights, play a vital role in that respect, and the United States therefore strongly supported its efforts to assist the new democracies. If it was to be able to satisfy their requirements, it would undoubtedly need additional resources and in the view of his delegation, that need could best be met by the Commission's reallocating resources from low-priority activities and eliminating waste in its expenditures across the board. The Centre's advisory services should also be used for the purposes for which they had been intended when they were introduced. They should not be used as a cover for human rights violators seeking to avoid stronger action by the Commission, nor should they be provided to countries that had not made a basic commitment to human rights. They should be used only to assist the new Governments of countries that had experienced serious human rights violations in the past in taking remedial measures to implement or restore human rights. It was clear that the nascent democracies needed help in creating not only a democratic infrastructure but also a democratic culture because, in the final analysis, no democracy would long survive unless human rights principles were institutionalized, and unless democracy became a way of life that the vast majority of a nation's citizens understood and subscribed to. Yet there should be no underestimating the difficulty or dangers of the task ahead that was faced by human rights defenders throughout the world and by the Centre for Human Rights because, although democracy and liberty were marked trends in the world, they were not yet a reality for well over 1 billion human beings.

42. Mr. BAUM (Germany) said that his country was one of the co-sponsors of a draft resolution entitled "Advisory services and Voluntary Fund for Technical Cooperation in the Field of Human Rights" (E/CN.4/1992/L.83) that would be voted on at the present session.

43. Activities under the programme of advisory services financed from the regular budget of the United Nations and those financed from the Voluntary Fund were closely linked. Both programmes had the same goal which was clearly stated in Articles 55 and 56 of the Charter of the United Nations that called upon Member States to take joint and separate action in cooperation with the

United Nations to promote universal respect for and observance of human rights and fundamental freedoms. It was above all for the Government of each country to ensure that those goals were attained. But the United Nations and its competent bodies, such as the Centre for Human Rights, should always be prepared to help Governments in the effective application of international human rights standards as well as in the establishment and development of national infrastructures for the promotion and protection of such standards.

44. One of the main principles behind the programme of advisory services was that they should be provided only on the express request of a Government. The increasing number of such requests clearly indicated that many Governments had come to realize the value of the programme. They included many countries in the process of making a difficult transition from authoritarian regimes to democratic structures. His Government was particularly pleased in that connection to note the Centre's involvement in the countries of Central and Eastern Europe. The Centre, just like the Governments concerned, should heed the recommendations and suggestions of competent United Nations bodies responsible for assisting Governments to comply with their obligations under international human rights instruments. Similarly, the committees set up under various human rights covenants and conventions, as well as the special rapporteurs, representatives and working groups of the Commission on Human Rights should not only have the expertise but also the obligation to inform and advise Governments in that context. However, the main responsibility lay with the Centre for Human Rights. It had to serve as a focal point and a clearing-house for all requests from Governments, as well as for coordination with other organizations of the United Nations system. It should also be in a position to determine whether a request fell under the category of programmes to be financed under the regular budget of the United Nations or under the Voluntary Fund. In that respect a clear distinction had to be made between two types of activities: first, stand-alone programmes such as individual seminars, training courses and scholarships for appropriate government personnel, expert advice concerning the national implementation of international human rights instruments or the drafting of constitutions and other national legal texts should be financed from the regular budget; and secondly, activities of a comprehensive character and especially those encompassing a country as a whole should be financed from the Voluntary Fund. Such larger-scale programmes should primarily be aimed at building up or strengthening national and regional human rights institutions and infrastructures.

45. His Government welcomed the establishment of the Unit for Technical Cooperation in the Centre. However, even after being strengthened in that way, it was clear that the Centre would not be able to respond favourably to all requests by itself. Cooperation between the Centre and other competent United Nations organs must therefore be increased. The protection and promotion of human rights had to be acknowledged as a major goal of the United Nations as a whole and could not be restricted by the limited capacities and means available to the Centre for Human Rights.

46. Furthermore, an important role had to be played by bilateral cooperation. His Government, for example, had decided only a few weeks previously to make available DM 18 million to finance programmes aimed at

furthering democratization processes in developing countries. The Centre for Human Rights could do important work in informing Governments of such possibilities under national programmes, and its activities under the Voluntary Fund could be used as an appropriate channel for the preparation and implementation of suitable projects. The German Government for its part was prepared to enter into consultations with interested Governments as well as with the Centre on the possibilities in that respect. It would also make a serious effort substantially to increase its contribution to the Voluntary Fund, but in that case it would have to be convinced that the structures and working methods of the Centre were both efficient and flexible.

47. Mr. WOLTERS (Netherlands) said that although many activities had been carried out under the programme of advisory services in the field of human rights since its introduction in 1953, the resources available for that purpose had always been limited. The impressive increase during the past few years in the number of international human rights instruments emphasized the need to establish and strengthen national and regional institutions responsible for promoting and protecting those rights. That was why his Government had supported the establishment in 1987 of a Voluntary Fund for Technical Cooperation which was to provide additional financial resources and to which it had since contributed, mostly directly. The advisory services programme would, in his view, be of great importance in future, since the implementation of international human rights standards at time of rapid political changes called for coordinated and sustained efforts; for that reason the programme could and should be improved. The number of activities financed from the regular budget and carried out under the programme was commendable, but priorities and objectives must be formulated more clearly. For example, what was the purpose of training courses, workshops and seminars, and at whom were they targeted? Were those who were trained responsible at the national level for the implementation of human rights instruments or the preparation of reports required by various treaty bodies? What procedures were used to secure the expertise for such courses and workshops? He considered that the Centre's staff should in principle be involved in the preparation and coordination of activities and not in their implementation, which should be left to trainers and teachers selected by the Centre from among experts or outside consultants. Moreover, there was a need for a more thorough evaluation of such activities. It should become routine that, after every activity, the target set for it and the actual results achieved should be compared so that the conclusions drawn could be used in the preparation of future activities.

48. With respect to the Voluntary Fund, he recalled that it had been created to finance activities under a global advisory services programme, namely, to help States in the implementation of human rights standards, to help strengthen democracy and promote development, to provide long-term remedies for existing shortcomings, and to help prevent situations that led to human rights violations. It was clear that there was a grey area between advisory services under the regular budget and those financed from the Voluntary Fund. A clear distinction should, however, be made on the basis of the respective objectives of those two types of programme, and the practice of financing from the Fund activities that were essentially regular budget activities should be ended.

49. His delegation welcomed the establishment by the Under-Secretary-General of a special Unit for the management of projects financed by the Voluntary Fund; it considered however that further improvement, such as the adoption of transparent appraisal procedures, would be desirable. It realized that until recently the Centre had had to cope with problems of human resources and therefore welcomed the appointment of the head of the Technical Cooperation Unit, whose presence would be a first step in the direction of an improved technical cooperation programme in the field of human rights. It was also pleased to note that the Centre worked with project formulation guidelines that were based on those of UNDP.

50. Other improvements were also possible. The growing number of requests for assistance from the Fund and its limited resources made it urgent to determine, on the basis of more precise criteria, the relative importance of the programmes requested. His delegation had read with interest in the Secretary-General's report on the question (E/CN.4/1992/49) that the Technical Cooperation Unit had embarked upon a streamlining of project management procedures. It hoped that members of the Commission would be informed of the results of that exercise at its next session. There was a clear need for a regular independent evaluation of the programme. The Voluntary Fund had been established five years previously and the time had possibly come for the evaluation not only of individual programmes but also of the programme as a whole. Had the assumptions on which the programme had been established been confirmed? What exactly was the role of the Fund? - Did it concentrate, as it should, on activities that could not be carried out under bilateral assistance programmes? If it was used to finance the same activities as those carried out under bilateral programmes, was it because the activities undertaken through the United Nations system were more efficient or had more impact and a greater symbolic value? A positive sign in that respect was that treaty bodies, as well as experts and rapporteurs, were to a greater extent advising the Centre on the need for activities in the field of advisory services and also on the results of their implementation. The Centre should be encouraged to take such information into account in the design of future activities.

51. Mr. PINTER (Czech and Slovak Federal Republic) said that the programme of advisory services in the field of human rights and the Voluntary Fund for Technical Cooperation made it possible to provide vital assistance to developing countries, as well as to countries like his own which were making the difficult transition from a totalitarian system to democracy. He thanked the Secretary-General for his valuable and detailed report (E/CN.4/1992/49), expressed appreciation of the role played by the Centre for Human Rights in the coordination of activities and hoped that the establishment of the Technical Cooperation Unit would make them even more effective. He also emphasized the need to coordinate the Centre's activities with those of other bodies, both inside and outside the United Nations system.

52. The three categories of activities financed under the regular budget, namely, seminars, workshops and training courses, as well as fellowships and advisory services of experts, were very important since many countries used such services for the purpose of drafting basic legal texts in conformity with international human rights conventions or for the preparation of democratic elections. His country had benefited from fellowship programmes in 1989 and 1990 and hoped that its young experts would be able to participate

in that programme once again in the very near future. His delegation thanked the governmental and non-governmental organizations that had supported the Voluntary Fund, for without their contributions it would have been impossible to carry out projects that had already enabled the citizens of many countries to acquaint themselves with basic human rights standards. The creation and strengthening of national and regional institutions for the promotion and protection of human rights, for which the Fund had mainly been created, were at the present time of crucial importance to his country. For that reason, his delegation felt it was necessary to increase the resources, human as well as financial, available to the Centre for Human Rights in connection with the provision of advisory services.

53. His delegation wished to thank the Centre for Human Rights and the Spanish Government for organizing, in Barcelona in January 1992, the European Conference on International Human Rights Standards for the countries participating in the Conference on Security and Cooperation in Europe. It was also grateful to the Centre and the Netherlands Government for the interest they had shown in his country's request for the establishment of a national documentation and training centre in Bratislava.

54. Mr. RAMISHVILI (Russian Federation) noted that an increasing number of Governments were taking advantage of the Centre's programmes of advisory services and technical cooperation in order to improve their legislation and the foundations of the rule of law and democracy in their respective countries. His delegation considered that those services constituted one of the most important activities not only of the Centre but also of the United Nations in general. The attitude of Governments to such services was a yardstick that could be used to measure their determination to embark upon the road to democracy. For that reason, those services should be expanded and made more efficient, and consequently the Centre's human and financial resources strengthened, particularly during the period of preparation for the World Conference on Human Rights. It would be a sin to cut corners at the expense of human rights, since the Centre's advisory services benefited all States. In that connection, the Voluntary Fund represented an important stimulus. His delegation hoped it would be possible, through that Fund, to provide a large number of the services, advice and recommendations that many countries and particularly the Russian Federation needed in order to consolidate their democratic foundations. His country was prepared to increase its cooperation with the Centre to that end.

55. Mr. ARTEAGA (Venezuela) said that advisory services in the field of human rights were an essential aspect of international cooperation. They helped Governments to improve the functioning and the activities of their national bodies responsible for the protection of human rights, as well as democratic countries experiencing serious institutional and material shortcomings. Such was the case of Guatemala, which had been a democratic country for barely seven years and which was still experiencing the effects of the previous dictatorship and the continuation of a domestic armed conflict. As indicated in the report prepared by the independent expert, Mr. Christian Tomuschat (E/CN.4/1992/5), negotiations between the Government and the National Guatemalan Revolutionary Union (Unidad revolucionaria nacional guatemalteca) since the conclusion of the Oslo Agreement in 1990 had resulted in a certain amount of progress but had not made it possible to lay sound foundations for a

peace agreement. His Government was aware that the human rights situation in Guatemala remained a source of concern. President Serrano had clearly stated that he disapproved of violence as a means of achieving political objectives and had taken a number of steps to protect human rights, but he was finding it very difficult to mobilize the resources necessary for the effective implementation of a policy ensuring respect for human rights and to obtain the wholehearted support of various State agencies. The Commission should therefore continue its cooperation with the Guatemalan people and Government in order to assist that country - by providing advisory services in the field of human rights - to find the most appropriate means of effectively guaranteeing respect for those rights. It could be assumed that the Guatemalan Government would continue to do its best to attain that objective and to assist the independent expert in his work.

56. For historical and geographical reasons, Venezuela maintained close relations of cooperation and friendship with Haiti. His Government was therefore following with great concern the events that had occurred in that country since the interruption of the democratic process. The report on the human rights situation in Haiti (E/CN.4/1992/50) prepared by the independent expert Mr. Bruni Celli indicated that the situation was alarming. The coup d'état against President Aristide had been condemned by the international community. Venezuela was contributing actively to the efforts being made at the regional and extraregional levels to restore the legitimate authorities to the exercise of power and to put the democratic process back on track. The serious violations of human rights that were taking place in Haiti, the prevailing situation of insecurity and terror, and the economic and social crisis being experienced by the Haitian people had given rise to a massive exodus. His delegation wished to thank UNHCR for what it had done for Haitians fleeing their country. The Commission should therefore continue to follow very closely political and social developments in Haiti and appoint a special rapporteur to submit a report under agenda item 12. Venezuela endorsed the independent expert's recommendation that, when national and international circumstances allowed, the Commission should request international agencies to provide Haiti with the necessary technical and financial assistance to develop the institutions and programmes to which improvement of the human rights situation in the country was linked. After listening to President Aristide's statement to the Commission, his delegation had every hope that the agreement concluded in Washington would result in President Aristide's rapid return to his country.

57. In conclusion, his delegation expressed its gratitude to the Centre for Human Rights for its intensive and fruitful activities and noted specifically that it had organized, in cooperation with the Venezuelan Government in June 1991 at Caracas, a first national training course on the application of United Nations machinery and procedures in the field of human rights, including humanitarian law.

58. Mr. Ennaceur (Tunisia) took the Chair.

59. Mr. GRILLO (Colombia) said that Colombia had, on its own initiative, requested advisory services in the field of human rights since it was convinced that that form of international cooperation was extremely valuable. The agreement concluded between the Colombian Government and the Centre for Human Rights had resulted in the formulation of a two-year programme dealing

in particular with the training of officials responsible for defence, the protection and promotion of human rights, the strengthening of machinery for the protection of human rights and analysis of the human rights situation in the country. Under that programme, the Centre had financed training fellowships for officials, provided bibliographical material for a future human rights information centre and organized seminars with trainers, trade unionists and members of the public at large. Experts had also contributed their knowledge, in particular in connection with the task of strengthening the judiciary and the procedures to be applied in cases of enforced or involuntary disappearances.

60. An expert from the Centre had evaluated the results of activities carried out in cooperation with the advisory services and had concluded that the exercise had been very valuable not only for the Colombian Government but also for the Centre for Human Rights. His Government had, with the support of the advisory services, taken a series of general steps to promote human rights, some of which were of a constitutional nature and concerned the prohibition of torture and other cruel, inhuman or degrading treatment, the remedy of habeas corpus, the prohibition for military tribunals to try civilians, and the modification of provisions concerning the state of emergency. A constitutional agency (the Defensoría del Pueblo) had also been created and would be specifically responsible for defending, protecting and promoting human rights in the country. Valuable assistance had been provided under the advisory services and the Colombian Government was convinced that that form of cooperation was the most suitable way of assisting States in creating conditions favourable for the realization of human rights. His delegation therefore thanked the Centre for Human Rights and the United Nations Development Programme for their cooperation. Since it felt that Colombian institutions had now been consolidated, it would refrain, for the moment, from requesting the elaboration of new advisory services programmes.

61. Generally speaking, it would be desirable to evaluate advisory services in order to adapt them better to the requirements and specificity of States. Programmes of action should also be drawn up on the basis of a previously established order of priorities. The Centre's activities had increased considerably since the creation of the Voluntary Fund and the donor countries were to be thanked; however, it would be well if the action taken by the Centre under the advisory services heading as well as the management of activities financed under the regular budget or by the Fund were based on specific criteria. Moreover, the Centre could use regional experts in defining priorities and refining its policy. Lastly, in order to enable all countries wishing to do so to request the Centre's services themselves, information should be provided on the criteria used by the Centre and the programmes it proposed, and exchanges and contacts increased between the Centre and Governments so that United Nations activities in the field of human rights could be essentially geared to cooperation. It was in that spirit that his delegation recommended that a general and comprehensive evaluation of advisory services should be carried out at the World Conference on Human Rights.

62. Mr. PIRIZ BALLON (Uruguay) said that, for the first time since the end of the dictatorship in 1984, Uruguay was once again a full member of the Commission. The country's unhappy experience, despite its legalistic and

democratic tradition, had given rise to considerable thinking about ways of protecting human rights, and had convinced the Uruguayan authorities that the defence of human rights implied cooperation between States which were becoming increasingly interdependent, as well as respect for international legal obligations. For the international protection of human rights was part and parcel of *jus cogens*, and the States parties to international human rights instruments could not shirk their obligations. The concept of national sovereignty could not be invoked to evade the application of monitoring machinery that had been freely accepted. States could not ignore the increasing number of bodies with jurisdiction or virtual jurisdiction to ensure the protection of human rights at the international level. For that reason it would be most desirable if, on the basis of recognition of the fact that international law had precedence over domestic law, the World Conference on Human Rights were to determine the most appropriate ways of ensuring better protection of human rights.

63. As for the Commission, although it was not a body with specific jurisdiction it was nevertheless a forum for discussion where human rights violations were denounced. With various kinds of monitoring machinery at its disposal, it possessed considerable means of conducting investigations in countries and bringing pressure to bear on Governments, often through public opinion. It could also take effective action by using the technical assistance of the Centre for Human Rights, working groups and independent experts; such procedures were particularly useful and welcome in two types of situation. First, in respect of regimes under which human rights were being flouted but which, being concerned about their image, did not wish to give the impression that they were yielding to pressure by the international community, and secondly in respect of well-intentioned regimes whose freedom of action was restricted by political and social shortcomings. Advisory services not only performed a practical function in providing support and assistance but also helped to disseminate information and arouse awareness, since they made people familiar with human rights matters and helped to create a universal human rights conscience. Moreover, they could identify the political, social or material factors that hampered respect for those rights in various countries. They could, for example, make it possible to determine how indigence and the shortcomings of judicial bodies affected the administration of justice. The evaluation of situations offered means of determining needs accurately and requesting material or financial assistance at the bilateral or multilateral level. Moreover, in view of the importance of technical assistance, his delegation welcomed the Commission's adoption at its previous session of resolution 1991/50 on advisory services in the field of human rights, as well as resolution 1991/49 on the Voluntary Fund for Technical Cooperation in the Field of Human Rights.

64. Cooperation between countries and international bodies should be based on objectivity, transparency and non-selectivity, as well as on the basic principle of the sovereign equality of States. The protection of human rights implied a universalist and egalitarian approach as the only way of promoting civil, political, economic, social and cultural rights and taking into account specific national characteristics.



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/1992/SR.50/Add.1
1 April 1992

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Forty-eighth session

SUMMARY RECORD OF THE 50th MEETING
(SECOND PART*)

Held at the Palais des Nations, Geneva,
on Monday, 2 March 1992, at 3 p.m.

<u>Chairman:</u>	Mr. ENNACEUR	(Tunisia)
later:	Mr. NASSERI	(Islamic Republic of Iran)
later:	Mr. SOLT	(Hungary)

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document E/CN.4/1992/SR.50.

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GE.92-11612/4365B

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 19) (continued)
(E/CN.4/1992/49; E/CN.4/1992/50 and Add.1; E/CN.4/1992/51; E/CN.4/1992/69;
E/CN.4/1992/NGO/20; E/CN.4/1992/NGO/36)

1. Mr. OYARCE (Chile), underlining the central role played by advisory services and technical assistance activities in the protection and promotion of human rights, said that instruction in civil, political, economic, social and cultural rights was of supreme value as a means of instilling democratic values in society. The draft resolution on the strengthening of the rule of law, submitted by Brazil, with Chile as a co-sponsor, was especially relevant in that connection.

2. It was generally agreed that advisory services were useful, yet it was disturbing that they were commonly viewed simply as a way of reflecting some political concern for a particular situation. The fact that a specific case was discussed under item 19 should be indicative of the determination of the international community and of individual countries to secure, through those services, full and complete observance of human rights under specific circumstances. It was rightly pointed out in paragraph 9 of document E/CN.4/1992/49 that the provision of advisory services and technical assistance in no way reduced a government's responsibility for the free exercise and promotion of human rights and fundamental freedoms. Furthermore, cooperation in human rights matters should be seen as a component of preventive diplomacy.

3. Numerous human rights instruments, such as the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child, included a reference to assistance as a means of promoting the application and observance of those rights; similar sentiments had been expressed by various bodies, including the Human Rights Committee and the Committee on the Elimination of Racial Discrimination. United Nations action in that respect had a dual configuration: assistance financed from the regular budget, and assistance financed from the Voluntary Fund for Technical Cooperation. The importance and relevance of advisory services and technical assistance were reflected in the increasing numbers of requests for such aid received from Governments. Among the activities financed under the regular budget, the Chilean delegation particularly appreciated the various training activities, including the internship programme. The activities of the Centre for Human Rights, although limited by budgetary constraints, were commendable, but there was a danger that the provision of services as a matter of some urgency might drain resources away from the Centre's more routine, but equally necessary, activities. Further thought might be given in the fellowship programme to the possibility of devising common courses with broad participation, and also more specialized activities which addressed the problems of specific regions and of especially vulnerable sectors of society, including indigenous populations. Greater benefit might also be derived from, for example, follow-up reports prepared by fellows on completion of the courses, containing their comments. Useful contributions for other countries could emerge from that process of evaluation.

4. Activities connected with the Voluntary Fund for Technical Cooperation in the Field of Human Rights should be seen as complementary to the advisory services already provided under the auspices of the Centre for Human Rights.

The Fund had rendered appreciable assistance to Governments in their democratization efforts, notably in the fields of institutional and legal reform and in educational activities. An important feature of the Fund was that it left the way open for Governments themselves to draw up their own programmes of activities in accordance with their own priorities.

5. His Government warmly endorsed the idea of setting up national and regional centres for documentation, education, training and advisory services; it was interested in designing a project with those components and would welcome the views of other contributors to the Voluntary Fund. Broad cooperation within the United Nations system was also desirable, and experience showed that UNDP, the World Bank and the specialized agencies, among others, could contribute usefully to the preparation of programmes whereby the promotion of human rights might be incorporated in the overall policies and strategies of the United Nations.

6. In the advancement of human rights, the administration of justice had a particularly important place, and he set great store by the Latin-American Seminar on Democracy and Economic and Social Development recently held in Santiago with the participation of experts and representatives of Governments. The Seminar which had addressed three crucial issues: education, training in democracy and human rights, and the strengthening of the administration of justice and the need to revitalize the institutional infrastructure for the rule of law. The development of human rights standards, and the will of States to accede to international instruments in that domain and obtain enhanced awareness of and effective participation in human rights activities called for a renewed spirit of cooperation that seemed increasingly possible to achieve in the current international climate.

7. Mr. Nasser (Islamic Republic of Iran) took the Chair.

8. Mr. DRISS (Tunisia) suggested that, at future sessions, in order to facilitate the participation of delegations which could allow to spend only a short time in Geneva, items 11 and 19 might be examined together, since the question of advisory services was closely bound up with the further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission.

9. Speaking both as a member of the Tunisian delegation and as President of Tunisia's Higher Committee for Human Rights and Fundamental Freedoms, he wished to draw particular attention to four of the recommendations adopted at the first International Workshop on National Institutions for the Promotion and Protection of Human Rights, held in Paris from 7 to 9 October 1991, which he had attended. The report by the Workshop was to be found in document E/CN.4/1992/43. The recommendations in question, which he wholeheartedly endorsed, were: first, that national institutions should address public opinion directly or through any press organ, particularly in order to publicize their opinions and recommendations; second, that in view of the fundamental role played by non-governmental organizations in expanding the work of national institutions, the latter should develop relations with NGOs engaged in protecting and promoting human rights, economic and social development, combating racism, protecting particularly vulnerable groups - especially children, migrant workers, refugees, physically and mentally

disabled persons, or in specialized areas; third, that the United Nations Voluntary Fund for Advisory Services and Technical Assistance in the Field of Human Rights should be increased in order that adequate assistance might be provided to national institutions; and finally, that in order to ensure action was taken on the results of the Workshop, the Commission on Human Rights should organize another seminar, to be held after the 1993 World Conference. He would add that Tunis had been proposed as the venue for such a seminar.

10. The United Nations programme of advisory services in the field of human rights had been established some 37 years ago, pursuant to General Assembly resolution 926 (X), which acknowledged the importance of technical assistance in attaining the objectives set out in the Charter and in the Universal Declaration. In that regard, he paid warm tribute to the work of the Centre for Human Rights and to the untiring efforts of the Under-Secretary-General for Human Rights, Mr. Martenson, which had left an important mark; there was every reason to believe that Mr. Blanca would be a most able successor. The Arab Institute on Human Rights, in Tunis, which owed so much to the late Dr. Mondher Anabtawi, was one of the regional institutions that had greatly benefited from the interest and support of the United Nations Centre. Again, the national training course on international human rights standards and national legislation held at Ulaanbaatar, Mongolia, from 28 October to 1 November 1991, was a most successful initiative and it deserved to be repeated elsewhere with national institutions. The Higher Committee for Human Rights and Fundamental Liberties in Tunisia for example, could take part in developing the fellowship and training programme. The Committee had been created at the beginning of 1991 and was, by virtue of its official status, mandate and capacities, ideally fitted to collaborate with the United Nations, and more particularly with the Centre on Human Rights, in the promotion of human rights and fundamental freedoms both in Tunisia, where it served in an advisory capacity to the President of the Republic, and abroad. Moreover, there was no duplication between the activities of the Committee and those of the Tunisian Human Rights Defence League and the Arab Institute on Human Rights. While the League appeared to concern itself with individual situations and specific cases, and the Institute had an essentially educational function, the Higher Committee exercised more of a policy-making role. However, it had also been declared competent to deal with violations of human rights and in the summer of 1991, at the request of the President of the Republic, had set up a commission of inquiry; orders had been issued for a judicial investigation into cases which the commission identified as involving such violations.

11. The President of the Republic of Tunisia was fully committed to the protection and promotion of human rights, but it must be acknowledged that realization of all the objectives of the Universal Declaration and the various international instruments would take some time. That was why consistent and far-reaching cooperation was called for, together with depoliticization of the subject, and account must be taken of the time and education factors that could bring about the required changes in mentalities.

12. Mr. JAGNE (Gambia) expressed satisfaction with the manner in which requests and recommendations concerning advisory services in the field of human rights made by his delegation at the previous session had been taken

into account; the Centre for Human Rights should be commended on its contribution to the marked improvement in respect for human rights and the protection of fundamental freedoms.

13. With the emergence of new democracies following the end of the Cold War, there was every reason to believe that the observance of human rights would become the centrepiece of the domestic and foreign policies of many countries. Moreover, democratic pluralism went hand in hand with respect for human rights. Nevertheless, and as many speakers during the present session had demonstrated, universal respect for human rights remained a distant goal. Torture and other cruel or degrading treatment or punishment; enforced or involuntary disappearances; racism and racial discrimination; manifestations of intolerance, often where they were least expected; and the subjection of children to ill-treatment and to prostitution all remained grave causes for concern. That was why his delegation attached particular importance to the programme of advisory services designed to assist Governments in developing the infrastructures that were necessary if international human rights standards were to be complied with. The increasing number of requests in that connection was encouraging, but as had already been pointed out, the provision of advisory services and technical assistance in no way reduced the responsibility or accountability of Governments with regard to their obligations under the various instruments.

14. The Commission's concern in the past had mainly been with the performance of Governments in the field of human rights, and solutions could always be found through concerted efforts. The problem lay in situations of insurgency, particularly when armed groups also committed atrocities. Although it might not be possible to extend formal advisory services to such groups, non-governmental organizations might be able to help. In that connection he would point out too that the establishment and maintenance of machinery for the peaceful settlement of disputes between individuals or groups, which was the subject of a report by the Secretary-General, must be an essential component of the basic human rights infrastructure of society.

15. The Gambia had always upheld the view that respect for human rights was a prerequisite for harmonious development. There was wide recognition of the relationship between human rights, popular participation and democracy on the one hand, and economic and social development on the other. Against that background, the Centre for Human Rights should be encouraged vigorously to pursue projects related to constitutional reform, institution-building and development of the democratic process.

16. The efforts of the Centre for Human Rights to provide assistance to those who were committed to a united, non-racial and democratic South Africa were to be especially applauded, given the urgent need for advisory services as South Africa worked its way through the delicate and difficult process of transition from apartheid.

17. He was confident that the Centre would continue to live up to the task assigned to it, but was equally conscious that, in view of the increasing calls on its services, the Centre should be provided with additional resources. Cooperation with other United Nations bodies and with other intergovernmental organizations would help to ease the burden. Also on the

subject of cooperation, he would urge that the idea of establishing subregional human rights centres for documentation and training in the OAS region should be borne in mind as a way of contributing substantially to the greater enjoyment of human rights in that part of the world.

18. As to the distinction between advisory services and technical assistance financed under the regular budget and activities financed from the Voluntary Fund, he wished to stress the need for proper coordination and to demonstrate flexibility, since the long-term objective of the activities was the same in each case and that every country, without exception, stood in need of help from one or the other source.

19. He could not fail to commend the efforts of the Centre for Human Rights under the leadership of the outgoing Under-Secretary-General, to whom special tribute was due. Without the support and encouragement of the United Nations Centre, it would have taken far longer to establish the African Centre for Democracy and Human Rights Studies. The same debt to the Centre was owed by the African Commission on Human and People's Rights. It was greatly to be hoped that, under the new administration, the same degree of cooperation would continue.

20. Mr. VERGA (Italy) said that the 1990s had begun with a surge of hope. The developments in Africa, Central America and Eastern and Central Europe were such that a new era of democracy, human rights and political freedom was born. A new human order was one of the challenges of the decade: a sensible reallocation of resources, a human-centred approach to decision making, and bilateral and multilateral endeavours were needed to transform broad concepts into plans and words into practical action.

21. The advisory services and technical assistance programme was a pillar of the activities of the Centre for Human Rights and could be regarded as part of the Organization's preventive diplomacy. In regard to the Voluntary Fund, his delegation had shown interest in the establishment of a technical cooperation unit, within the mandate of the Centre, to perform the urgent task of strengthening democratic institutions and assisting in the reform of legal systems through the execution of comprehensive and durable programmes. In the past three years, the donor community had repeatedly underscored the link between human rights, democracy and development. The conviction was amply shared that there was a vital connection between open, democratic and accountable political systems, the rights of the individual and the effective and equitable operation of economic systems with a substantial reduction in poverty.

22. He appreciated the Secretariat's efforts, as reflected in document E/CN.4/1992/49, to establish a more immediate distinction between the management and operations of the programme of advisory services and technical assistance on the one hand, and activities financed under the Voluntary Fund on the other. Equally welcome was the introduction of the concept of "comprehensive country programmes" for activities financed under the Fund, to which Italy had been a regular contributor from the beginning. The Italian Government, which was considering the possibility of increasing its contribution, also favoured the continuation of the associated experts programme launched in 1991 by financing three posts for Italian professionals.

23. The technical cooperation provided by the Centre for Human Rights in Latin American and in Eastern and Central Europe was important, and he would single out in that connection the Latin American Seminar on Human Rights, Democracy, Economic and Social Development, held in Chile in December 1991, and the recent, exemplary agreement on technical cooperation reached with the Government of Albania.

24. In short, his delegation remained firmly convinced that advisory services, technical assistance and technical cooperation had a vital role to play in ensuring democracy and full enjoyment of human rights in countries undergoing profound political and economic transformations, and thereby contributed to the strengthening of international peace, security and cooperation.

25. Mr. STROHAL (Austria) said that the present agenda item was the proper place for a comprehensive review of advisory services, an issue which, through its two-fold function of remedy and prevention, pervaded every aspect of the Commission's work. The overall programme resulting from that review should contain clear guidelines in two areas.

26. First, with regard to the substance of assistance and cooperation in human rights, advisory services could not replace government action: they could only assist and strengthen such action. It was thus important to concentrate on institution-building measures to contribute to effective implementation of international standards at the national level, for the best bastion against human rights violations was strong national infrastructures, which entailed long-term training programmes for legislators, judges, law enforcement officials and teachers, as well as specific projects in support of processes of democratization. In addition, regular follow-up assessments, and follow-up activities by the country concerned, must be undertaken. In that regard, it might be helpful to develop a range of model projects in areas such as administration of justice, independence of the judiciary, and prevention of torture.

27. The second element in a comprehensive definition of an overall programme of advisory services was its structure and management. While remaining complementary, the two main elements of the advisory services provided by the Centre for Human Rights - namely, the regular programme and projects financed under the Voluntary Fund - needed to be clearly distinguished, particularly with regard to their finances. Consequently, the problem of inadequate financing for the regular programme would have to be solved without recourse to voluntary contributions. His delegation thus appreciated the Centre's undertakings regarding clear internal structures to deal with requests for individual projects and was convinced that the work of the new technical cooperation unit would soon produce the desired results, particularly in view of the continuous expansion of the volume of funds available. In that context, he was pleased to announce that Austria had decided to contribute again to the Voluntary Fund.

28. In the wider context of cooperation within the United Nations system as a whole, special rapporteurs and working groups had an important role to play: their recommendations should lead to concrete proposals for projects under the advisory services programme. The same was true of the work of treaty-based

bodies, which should be encouraged to identify and to follow up project proposals. His delegation also urged the Centre to formulate concrete project proposals on the basis of those recommendations, for submission to the Governments concerned. A chapter on such recommendations and their follow-up should appear in next year's report to the Commission.

29. Outside the Centre for Human Rights, interesting work had recently been done in other parts of the system, such as the United Nations Development Programme (UNDP), the World Bank, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the International Labour Organisation (ILO). Through regular inter-agency contacts, the Centre was endeavouring to serve as a focal point for those efforts. If it was to play an effective role in that context, however, its resources would have to be strengthened, and cooperation with other organizations intensified, with a clear focus on common objectives and on execution of joint projects with material support from those organizations.

30. Beyond the United Nations system, the vast number of governmental aid agencies and non-governmental organizations active in the field of advisory services should be encouraged to cooperate actively with the Centre, which, in the longer term, would be able to serve as a "clearing house" for participants in advisory services, coordinating both input, in the form of project identification and assessment, and output, in the form of project implementation and follow-up. There again, development of such a comprehensive programme would necessitate a strengthening of the Centre's resources.

31. It was gratifying to note that a growing number of countries were expressing an interest in such cooperation, and that more and more projects met the criteria he had tried to sketch out. In that context, his delegation had expressed its opinion on the reports by Mr. Tomuschat (E/CN.4/1992/5) on the situation of human rights in Guatemala, and by Mr. Volio Jiménez (E/CN.4/1992/51) on Equatorial Guinea, in what it saw as their proper context, namely, under agenda item 12. Advisory services were comprehensive in nature. Agenda item 19 was a complement, not an alternative, to other items: increased international cooperation for technical assistance in the field of human rights should be a welcome addition - and never an alternative - to monitoring respect for human rights.

32. Mr. BODBAATAR (Observer for Mongolia) commended the work done by the Centre for Human Rights during the past year in the field of advisory services, in helping to build up national human rights institutions and infrastructures by providing expert advice on the elaboration of democratic constitutions and legislation, by offering fellowships, organizing national, regional and international seminars, and by publishing international human rights instruments in local languages. Such multi-faceted assistance was essential for countries such as Mongolia, which were at present undergoing a process of democratization and restructuring. Thanks to the Centre's expert assistance, Mongolia's recently enacted Constitution reflected universally accepted human rights standards, not only proclaiming fundamental human rights and freedoms, but also establishing the State's responsibility to create economic, social, legal and other guarantees and to combat violations of human rights and freedoms, and to restore those rights where they had been infringed.

33. In cooperation with his Government, the Centre had also organized a training course on international human rights standards and national legislation, held in Ulaanbaatar in the autumn of 1991. The course had given law-makers, legal practitioners and other relevant officials and non-governmental organizations a better knowledge and understanding of international human rights standards and of the existing machinery to implement them. He wished to express his Government's gratitude to the Centre for its valuable assistance in the field of human rights, and reiterated its readiness to enhance its cooperation with the Centre, particularly in regard to advisory services and technical assistance.

34. Mr. O'FLOINN (Observer for Ireland) welcomed the clear distinction drawn in the Secretary-General's report (E/CN.4/1992/49) between activities financed under Section 24 of the Regular Budget and projects financed under the Voluntary Fund for Technical Cooperation in the Field of Human Rights, as well as the stress laid on close coordination of all advisory service functions, however financed. One general criticism of the report presented to the Commission was that it was not concise enough, some of the material included being more appropriate to a report on the general activities of the Centre for Human Rights. The next report to the Commission should focus only on those activities which concerned advisory services.

35. It was gratifying that further steps had been taken to improve management of the Voluntary Fund, particularly by the establishment of the Technical Cooperation Unit, and his delegation looked forward to receiving the promised publication explaining the operation of the Fund to donors and beneficiaries. However, organizational changes and additional publications were not sufficient. There must also be continuous dialogue between the Centre and all interested missions in Geneva, to secure an efficient and productive use of contributions to the Fund. He was also pleased to see the number of seminars and workshops organized in 1991, but the organization of such seminars, with the participation of an impressive array of senior officials, was not always followed by an improvement in observance of human rights in the country concerned. Provision of advisory services and technical assistance did not diminish a government's responsibility in the field of human rights.

36. On a more positive note, his delegation fully endorsed the growing emphasis on the interrelationship between human rights, responsible government and sustainable development. Such emphasis should be pursued and the patronizing attitudes of the past should be eschewed. There must be wholehearted cooperation between countries with different historical experiences, enabling all of them to benefit from that interrelationship. His delegation was particularly glad to note that a mission had visited Lesotho in November 1991 to provide advisory services on the legal and technical aspects of democratic elections. Lesotho and Ireland had a close relationship in the context of Ireland's bilateral development aid programme. The mission had been received at the highest level, and he warmly commended the initiative of the Government of Lesotho in availing itself of advisory services on that question.

37. His country was a sponsor of the draft resolution on Advisory Services and the Voluntary Fund, which was intended to replace the two resolutions adopted by the Commission the previous year. It wished to record its

appreciation of the very valuable work done by Germany in that regard. The draft resolution exemplified ways in which the Commission could rationalize and update its work with regard to the resolutions adopted each year. In its last section, the draft resolution dealt with system-wide cooperation - a question to which he attached much importance - welcoming the identification by ILO and the Centre of areas for closer cooperation, particularly in connection with the World Conference on Human Rights.

38. Ireland was fully aware of the increased demand for assistance from the Voluntary Fund and it welcomed the Secretary-General's emphasis on the particular needs of developing countries. It had made its first contribution to the Fund in 1991 and had made a substantially increased contribution for 1992. It had also made a considerably higher 1992 contribution to the Voluntary Fund for Victims of Torture, having recently paid IRE 5,000 to defray the travel expenses of representatives of the least developed countries participating in the World Conference on Human Rights and in its preparatory process. Ireland's total contribution in 1992 to the various voluntary funds for human rights totalled IRE 12,000, and was about three times its 1991 contribution. That increase was a tangible demonstration of its commitment, despite its own limited resources, to cooperation with developing countries in the cause of human rights.

39. Mrs. LUND (Observer for Norway), speaking on behalf of the five Nordic countries, said that the programme of advisory services was instrumental in achieving the overall objective of assisting States in their efforts to build the necessary infrastructures and create a lasting foundation for the widest realization of human rights. A clear distinction should continue to be drawn between activities in the programme financed under the regular budget and those financed under the Voluntary Fund. Care should be taken, however, to ensure that the same standards were applied to the preparation, execution and follow-up of all programme components. Equally important were thorough evaluation in the pre-project phase, and justification of the activities in question. For activities under the regular budget, clearer criteria should be applied for project identification and appraisal. The objectives, themes and methods of organizing the training courses, workshops and seminars should be more clearly defined in relation to the beneficiaries' specific needs. Categories of participants should be more carefully selected, and better follow-up and assessment methods introduced. She accordingly urged the Secretary-General to take steps to follow up on those questions and to include information on that matter in his report to the Commission in 1993.

40. The Nordic countries welcomed the recent measures to ensure more effective operation and administration of the Voluntary Fund. The newly established technical cooperation unit should enable the Centre to handle the increased magnitude and complexity of programmes under the Fund more effectively and it would make for better application of the guidelines for appraising project viability, monitoring implementation and assessing results. There was a need to design and implement further short- and longer-term policies in response to the sharp rise in requests for assistance - a need that would also be crucial in deciding on the relationship between the Centre and other United Nations agencies in the area of technical assistance. In that regard, the Centre for Human Rights should give further consideration to the development of model programmes for building and strengthening national

institutions, which, once formulated, could be tailored to individual country situations. Such model programmes could first be envisaged for projects relating to legal protection and the strengthening of the judiciary. For that purpose, due note should be taken of the analysis of relevant parts of the advisory services programme undertaken by Mr. Joinet in his report on the independence of the judiciary and the protection of practising lawyers (E/CN.4/Sub.2/1991/30). More active account should also be taken of the recommendations of the thematic special rapporteurs and working groups, and of the treaty-monitoring bodies, in designing advisory services under the auspices of the Commission.

41. Further thought should be given to the question of the period of time for which the Centre should be involved in the implementation of each project. In future, its main role might be to develop the framework, methods and concepts needed for strengthening human rights in the development process, seeking to involve other parts of the United Nations system and outside expertise in the actual implementation and follow-up. Such a procedure would allow for better use of limited resources and greater flexibility, and might ultimately produce better results. Some situations, however, might call for longer-term involvement by the Centre at the outset.

42. In order to address both the promotion and the protection of human rights, the Secretary-General would be well advised, before embarking on technical cooperation, to make sure that the States concerned were fully committed to fulfilling their international human rights obligations. To that end, the Nordic countries supported an advisory services strategy based on systematic evaluation of the human rights situation in question and of the needs and capacities of the countries concerned.

43. In 1991 the Nordic countries had substantially increased their contributions to the Voluntary Fund, which they would continue to support. They were satisfied that the Centre would ensure transparency in the criteria applied and the rules of procedure to be followed in carrying out projects. They noted with particular interest that early contacts would be made with other United Nations agencies and organizations, with a view to their possible participation in projects. It was to be hoped that that development would lead to more extensive cooperation between United Nations agencies and organizations dealing with protection of human rights and those dealing with development cooperation. The Nordic countries suggested that the Centre might follow meetings of the Governing Council of UNDP and of other executive organs, with a view to identifying common ground for cooperation. It should also explore ways in which non-governmental organizations could play a more significant role.

44. Mr. KEDZIA (Observer for Poland) said that the proper and effective implementation of advisory services and technical assistance in the field of human rights was of undeniable importance for all countries that were in the process of creating or developing the necessary mechanisms to meet international human rights standards. The creation of workable human rights infrastructures was an indispensable element of those services. Expert services, fellowships and scholarships, training courses and seminars were of great significance in that regard. There was an acute need for information, organized documentation and human rights training in all the post-communist

countries. Consequently, the intention of the Centre for Human Rights to establish facilities for human rights documentation and training in those countries was most welcome, and indeed indispensable, in the light of their severely limited financial resources.

45. A few months ago, the Centre and the Polish Government had signed a technical cooperation project to strengthen human rights infrastructures in Poland, through wider dissemination of information, appropriate documentation, and training of target groups such as parliamentarians, government officials, judges, lawyers, teachers, students, trade unions and other non-governmental organizations. After a thorough examination of existing needs and domestic human rights institutions, it had been agreed that support for those institutions would be preferable to the creation of new ones. The project had already had a catalytic effect on a wide range of human rights activities. Its implementation had contributed significantly to the establishment of a network of human rights institutions at the academic level and among non-governmental organizations. While the programme of advisory services could not be expected to solve all Poland's problems, it should nevertheless help to build a solid basis for future efforts.

46. The advisory services programme needed to be implemented in a flexible manner, since needs varied from country to country. Due significance should thus be attached to the work of the technical cooperation unit within the Centre. In that context, the draft resolution on Advisory Services and the Voluntary Fund for Technical Cooperation in the Field of Human Rights deserved full support.

47. As to agenda item 22, Poland had been among the initiators of the Convention on the Rights of the Child and it attached great importance to compliance by State parties with their obligations under the Convention. Hence it welcomed the Swedish delegation's initiative regarding a resolution on the implementation of the Convention on the Rights of the Child and fully supported the resolution.

48. Mr. REYN (Observer for Belgium) said a State must, of course, be in a position to implement international instruments, and that was where the programme of advisory services had an important role to play in creating and promoting national institutions for the protection of human rights. It would be remembered that General Assembly resolution 46/137 had highlighted the importance of advisory services and technical assistance in the holding of free elections. Moreover, the Centre for Human Rights could provide assistance in creating an effective judiciary and police force.

49. Belgium welcomed the greater recognition of the close link between democracy, human rights and development assistance. The European Community, together with the other signatories of the Lomé Convention, had incorporated human rights in its development programme and the Twelve stood ready to offer assistance to countries that embarked on the road to democracy and pluralism. Conversely, human rights violations and harm to the democratic process entailed consequences that could well lead to a reduction in development aid and cooperation.

50. His delegation attached special importance to establishing regional arrangements to promote and protect human rights, particularly in Asia and the Pacific. For many years, Belgium, together with a number of other countries, had been working to achieve greater cooperation between regional and international human rights institutions. The programme of advisory services offered a suitable framework for such efforts. Accordingly, his delegation supported the advisory services and technical assistance activities of the Centre for Human Rights in the various regions of the world.

51. Mr. URRUELA PRADO (Observer for Guatemala) thanked the Commission, on behalf of the civilian and democratic Government of President Serrano Elías for recognizing the efforts made by the Government to achieve full respect for human rights and the rule of law. The human rights violations in Guatemala must be seen in the historical, economic, social and institutional context. An authoritarian tradition in a repressive system and a domestic armed conflict of more than 30 years had had an adverse impact on the prevailing situation of impunity. As a developing country with limited resources, Guatemala called upon the international community to ensure, in keeping with the independent Expert's recommendations, implementation of a special medium- and long-term programme to combat the problem of impunity. The activities carried out by his Government to improve the human rights situation were set out in document E/CN.4/1992/69. It should be noted, for instance, that the Department of Public Prosecutions had been strengthened and reorganized and that the Congress of the Republic had approved the International Covenant on Civil and Political Rights.

52. His Government would spare no effort to put an end to the armed conflict in Guatemala. To that end, it had submitted a peace plan calling for direct negotiations with the leadership of the irregular forces. The armed conflict had had an enormous impact on human rights guarantees. It had impeded the country's development, causing extreme poverty among broad sectors of the population, which in turn had led to crime and violence that could not be effectively held in check. The unpunished activities of the irregular forces constituted grave human rights violations directly affecting the civilian population, such as terrorist attacks against the economic infrastructure involving the destruction of roads, bridges and power lines, and placing land-mines in population and production areas.

53. The Government had taken a firm stance on the problem of refugees and displaced persons and on providing of health care, education and access to markets for the population in the areas of conflict. During the visit by the United Nations High Commissioner for Refugees on 12, 13 and 14 November 1991, an agreement had been signed between the Government of Guatemala and UNHCR to set up the basis for repatriation and to make sure that refugees were treated with dignity and in security. An end to the refugee problem was being sought through voluntary repatriation. In view of the need to improve the quality of life of the population and in order to achieve a firm and lasting peace, the National Peace Fund had been created to back up the policy of financial and technical support for the preparation, supervision and follow-up of programmes and projects aimed at helping those persons affected by the armed conflict.

54. Guatemala intended to work with the Commission in its efforts to build a more just, peaceful and democratic Guatemala.

55. Mr. VIGNY (Observer for Switzerland) said that in order to improve the overall performance of the programme of advisory services and in view of the insufficient resources available to the Centre for Human Rights, it was important to define priorities clearly when drafting and carrying out programmes. The distinction established between activities financed under the regular budget and to those financed under the Voluntary Fund would improve advisory services management and would not interfere with cooperation between those two complementary activities.

56. As to programmes financed under the regular budget, a careful defining of priorities and assessment criteria was the only way to balance financial constraints and a growing number of projects. A choice must be made among the various project requests and it was essential to select projects that would have a predictable impact and could be carried out in cooperation with other institutions. When projects were drafted it was essential to ensure the systematic involvement of the relevant mechanisms of the Commission and of the non-governmental organizations. Projects must benefit from objective assessment and careful follow-up. The Under-Secretary-General must give attention to requests for assistance, under treaty and institutional arrangements, for they reflected serious shortcomings that usually needed urgent technical assistance.

57. For the Voluntary Fund, it was equally necessary to impose strict programme management based on the definition and implementation of project assessment criteria. In that context, his delegation welcomed the creation by the Under-Secretary-General of the technical cooperation unit to improve the management of the Fund by introducing coherent and precise rules for project assessment. As a result of that initiative, his Government, a contributor to the Fund since 1990, had substantially increased its contribution, which in 1991 had amounted to 80,000 Swiss francs, about US\$ 60,000.

58. Given the importance of an independent judiciary in improving respect for human rights, his delegation was in favour of focusing on projects aimed at strengthening the independence of the judiciary, in keeping with the constructive proposal of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1991/30); the concrete proposals for advisory services made in that document could serve as a model.

59. The three independent Experts on Guatemala, Haiti and Equatorial Guinea, appointed under agenda item 19, had mandates that would have been more appropriate under agenda item 12, and their on-site missions had not enabled them to recommend making advisory services available to those countries. It would therefore be preferable to appoint a special rapporteur under agenda item 12 for any country in which serious human rights violations were taking place. The special rapporteur's task would be to investigate the situation, identify advisory service needs and report to the Commission. The Commission would then draft a resolution calling upon the State concerned to request the advisory services recommended by the special rapporteur and the Centre for Human Rights would ensure on-site follow-up by sending experts to carry out specific projects within the framework of the programme criteria defined by the special rapporteur, who must check whether the criteria were being respected. If a special rapporteur was not appointed under agenda item 12

to investigate serious and repeated human rights violation in a particular country, the thematic experts should coordinate their activities in regard to that country and take action on advisory services.

60. Mr. ELLOUZE (Observer for Sao Tome and Principe) said that his country, which had shown its political determination to promote and protect human rights, could legitimately request advisory services and technical assistance. His delegation called for an increase in the resources available to the Centre for Human Rights, which meant that the Centre must have the mandate and the means to carry out its own perestroika, i.e. restructuring and revitalization. Sao Tome and Principe, which stood ready to defend and promote human rights, did not yet have the structural prerequisites for consolidating the achievements of its democratic society in the field of human rights. Enhanced programmes of advisory services and technical assistance would be an appropriate response for the young democracies. Clearly, the increasing number of requests for such assistance programmes meant that more resources were needed.

61. States which made generous contributions to voluntary funds were to be congratulated. Priority should go not to new standard setting but to the implementation of existing standards. In that regard, information, training and advisory services were of considerable importance. There was a correlation between the resources and means available to a country for protecting human rights and the determination with which it carried out its own national human rights programme. It was for his country to set the priorities and for the Centre for Human Rights to provide additional aid and the necessary support to that end.

62. Mr. TEITELBAUM (American Association of Jurists) said the fact that Guatemala, Equatorial Guinea and Haiti figured under agenda item 19 as countries receiving advisory services and technical assistance implied that the Governments of those three countries were determined to improve the human rights situation with the help of the United Nations, whereas exactly the opposite was the case. The independent Experts for those three countries had revealed the truly deplorable human rights situations there.

63. The American Association of Jurists shared the view that advisory services could be provided to countries in which human rights were violated, but it was essential to consider how to provide them, to whom and under what conditions. Again, such services must not be incompatible with investigations into human rights violations in the country concerned. Under no circumstances, however, should the advisory services and technical assistance be used to give a distorted picture and to conceal the true human rights situation.

64. It was striking to note from the last two reports of the Secretary-General on advisory services (E/CN.4/1991/55 and E/CN.4/1992/49) the imbalance in certain cases between the activity carried out and the human and financial resources engaged. For example, in a practical course lasting three days in Manila, the Philippines, 14 experts had participated at a cost of some US\$ 150,000. Seventeen experts had taken part in a four-day course on the rights of the child held in India, although not all of them had had previous experience with the subject-matter. In general, such courses and seminars were attended by government officials, members of the armed forces and

security forces and what his organization termed "para-governmental organizations", but there were virtually no representatives of truly non-governmental organizations (NGOs) or human rights groups. The fellowship programme was exclusively for candidates proposed by Governments. The time had come to modify the procedure for selecting candidates so that national and international NGOs could propose fellowship candidates to the Secretary-General.

65. A great effort had been made with publications, but for example, ordinary paper could be used instead of glossy paper so as to cut back on costs. The publications had not paid sufficient attention to economic, social and cultural rights. It would be useful to print the decisions and resolutions of the General Assembly concerning those rights, as well as the 1986 Declaration on the Right to Development.

66. It was gratifying that the advisory services programme offered courses and seminars to members of the armed forces and security forces. However, his organization was sceptical about the results, because it was difficult to counteract by means of a short seminar the disregard for life and human dignity which members of such groups, and particularly those in so-called elite battalions or special forces, learned in their theoretical and practical training. A study should be conducted on the content of the training received by members of the armed forces and security forces, and he suggested systematic inclusion of human rights topics in training courses.

67. Again, courses and seminars should only be carried out in countries whose Governments allowed members of genuine non-governmental organizations and human rights groups to attend. The opposition raised by certain Governments to participation by NGOs was proof of the lack of true interest in improving the human rights situation and showed that advisory services were being used solely to improve a country's international image. It was important to set up a governing council for the Voluntary Fund, consisting of independent experts from the various geographical regions, to manage the finances and to decide which programmes would be given priority, in the light of the urgency and expected effectiveness of each project. The NGOs should have some form of representation on the council.

68. The non-governmental commission to investigate the coup d'état in Haiti, which had its headquarters in New York and in which the vice-president of the American Association of Jurists, Deborah Jackson, was participating, had sent a mission to the Dominican Republic in November and to Haiti in December 1991. In its preliminary report, the commission had given an account of the terrible situation of thousands of Haitian refugees in the Dominican Republic, who had been imprisoned, robbed and beaten by members of the Dominican armed forces. Many had returned to Haiti. The mission had noted heavy transfrontier traffic, in breach of the embargo imposed by the Organization of American States. In Haiti, the mission had found that detentions and ill-treatment were widespread. An estimated 1,500 to 2,000 persons had been murdered by the armed forces and the "Tontons Macoutes" since the coup d'état. The international community must provide the Haitian refugees with humanitarian assistance, and a special force must be created so that President Aristide and his colleagues were protected if he returned to Haiti to resume leadership of the Government.

69. Ms. REYES (International Federation of Human Rights) said that, despite the many statements by States members and non-members of the Commission and non-governmental organizations to the effect that the case of Guatemala should be examined under agenda item 12, it had been decided to continue to consider it under agenda item 19. In the last paragraph of resolution 1991/51, the Commission had decided that the question would be considered under an item of the agenda to be determined in the light of the report by the independent Expert on the situation of human rights and fundamental freedoms in Guatemala. The many allegations and conclusive evidence heard left no doubt that the situation in Guatemala continued to be serious. The Expert, Mr. Tomuschat, had stated in his report (E/CN.4/1991/5 and Add.1) that the Guatemalan people were still living in a state of fear and intimidation. Her organization would therefore have liked the Expert to recommend that the Commission should exercise greater vigilance over the Government of Guatemala. Other interests had prevailed, however, and the Commission had again given the Government the benefit of the doubt - a fact that would certainly be regretted at the next session when the voices of the victims were heard once more.

70. The Commission's decision compromised the United Nations advisory services in the field of human rights, which should be provided to countries that were in a position to implement the experts' recommendations and not to countries in which the situation revealed a consistent pattern of violations of human rights. The Government would inevitably interpret it as the international community's consent to continue to repress the people, as it had done ever since the case had been transferred from agenda item 12.

71. As to the Government's report (E/CN.4/1992/69) on its activities related to the policy on human rights and respect for legality, any advice that could be given to the Guatemalan national police by the Carabineros Professional School of Chile was unlikely, in view of that School's history of repression, to bring about any improvement in the way in which the police performed their constitutional function of guaranteeing the safety of citizens. Such other measures as reopening the National Police School with a new study programme to include a course in human rights, strengthening the civilian authority of the Ministry of the Interior, providing the necessary equipment and technical expertise for all National Police agents, preparing human rights manuals and establishing a criminal investigation laboratory, would be insufficient if the national police failed to realize that all its actions were closely linked to observance of human rights.

72. Secondly, the establishment of a Presidential Committee to Coordinate the Policy of the Executive in terms of human rights, cited as proof of compliance with Mr. Tomuschat's recommendations, had had no effect on the human rights situation, since the Committee had not begun its work. That kind of committee was not new. During the Government of Vinicio Cerezo, a presidential advisory commission on human rights had been established, but nothing was known about its functions beyond the fact that it had signed a report prepared by members of Guatemalan military intelligence and submitted to the Commission at its forty-fifth session.

73. As to the outcome of the advice given to the Government of Guatemala since the case had been placed under agenda item 19, she drew the Commission's attention to paragraphs 139 and 140 of the independent Expert's report, in

which it was stated that recommendations designed to improve the judicial protection of human rights had not been properly complied with. Clearly, the Guatemalan Government had not made proper use of the advisory services provided by the United Nations, and her organization feared that the recommendations made in 1992 by the independent Expert might suffer the same fate. Any advice on human rights offered to Guatemala would remain insufficient if the civil power continued to be dominated by the military. The civil government would be incapable of properly implementing any recommendation to improve the human rights situation if no protection was afforded to members of peoples' and human rights organizations who daily risked their lives for the defence of the human rights that were fully guaranteed under article 45 of Guatemala's Constitution, and if advisory services were not offered also to the non-governmental organizations to help them to improve their activities.

74. Ms. AULA (International League for the Rights and Liberation of Peoples) said that a system of advisory services no doubt represented a first step in handling and denouncing situations in which fundamental human rights and freedoms were violated.

75. In conformity with Commission resolution 991/77, Mr. Marco Tulio Bruni Celli had been appointed as the independent Expert to study and prepare a report on the human rights situation in Haiti. Her delegation welcomed the intention of the Centre for Human Rights to continue to follow closely the disturbing situation in that country, but regretted that firmer action had not been initiated to put a final end to the afflictions of the Haitian people. Following the elections on 16 December 1990, which had taken place in the presence of international observers and had opened the way to democracy, the situation had been disrupted by a military coup d'état, which the Expert had described as unacceptable, illegitimate and against democratic principles. Contrary to the letter and spirit of the 1987 Constitution, the coup had overthrown President Aristide in contempt for the dignity of the Haitian people. While recent events appeared to show a willingness to re-establish some spirit of democracy, it must not be forgotten that, since the coup d'état, violence, torture in prison, disappearances and abductions, searches without a warrant, violations of freedom of movement, press embargoes, prohibition of meetings and repression had assumed increasingly striking proportions. The Inter-American Commission on Human Rights reported that there had been some 1,500 executions.

76. As indicated in paragraph 100 of the independent Expert's report (E/CN.4/1992/50), hopes of freedom, peace, jobs and well-being aroused by President Aristide's entry into office had checked emigration somewhat, but it had picked up again after the coup d'état; Haitians were generally believed to emigrate chiefly for economic reasons, but emigration should also be regarded as having its roots in the terror that existed in the country. It was well known that the terrible repression, in which so many innocent and unarmed people had been massacred, was increasing and giving rise to the desperate flight of more than 15,000 boat people, who were often subjected to inhuman treatment on the part of immigration authorities. The unequivocal position taken by the High Commissioner for Refugees was significant in the light of Washington's desire to turn away thousands of Haitian asylum seekers. In view of the serious violations of human rights in Haiti, and lest the returnees would be in danger, the High Commissioner had requested the United States

authorities to delay their enforced repatriation until the situation in Haiti had stabilized. Unfortunately it could only be said that a further violation of the rights of the Haitian people was being perpetrated.

77. Faced with the difficulty of maintaining the rule of law, President Aristide had none the less restored the 1987 Constitution, but it was clear, as emphasized in paragraph 138 of the Expert's report, that the overriding and legitimate concern to protect and guarantee human rights as laid down in the Constitution and defined in the international instruments ratified by Haiti presupposed the organization, shaping and harmonization of an integrated system of justice comprising modern legislation, a professional police force, independent courts and a trained prison administration. Those matters had no place in the present regime in Haiti.

78. There did appear to be some sign of hope and of an agreement on setting up a consensus Government, yet it was for all the other reasons to which it had drawn attention that her organization urged the Commission to revert to General Assembly resolutions 46/7 and 46/138 with a view to promoting the restoration of democracy and the return of the legally elected President of the Haitian Republic; firmly to condemn the constant abuses against the Haitian people; to appoint a special rapporteur to examine the situation in greater detail; and to invite the United States to refrain from forcibly repatriating thousands of boat people, by granting them temporary protected status, for example.

79. There was, however, a burning issue to be considered by the international community before specific action was taken: were Haiti and its people to be a matter of conscience or of indifference? It was indeed a case that should stir the conscience of every human being worthy of the name.

80. Ms. NEURY (Centre Europe - Tiers Monde) said her organization was seriously concerned about the alarming situation in Haiti. It commended Mr. Bruni Celli on his excellent report on the situation of human rights in that country, a report that could not have been easy to prepare because there had been three Governments in Haiti in 1991: one provisional, the second democratically elected, and the third taking power by armed threat.

81. After 29 years of bloody dictatorship under the Duvaliers, and more than five years of transition during which there had been five successive Governments, the Haitian people had, for the first time, democratically elected their President in December 1990 in the person of Father Jean-Bertrand Aristide, who had represented the hope of the underprivileged for democratic change. His programme, based on justice, participation and transparency, had been unable to reverse the country's poor economic situation or to destroy the malevolent spirit of Duvalierism, for on 30 September 1991 the first independent black republic had fallen back into the hands of oppressors known as the Tontons Macoutes. The hopes of the Haitian people had vanished and the will of the people had been flouted. The terror in Haiti had never before reached such a degree of violence. Although the putschists had been condemned by international opinion, the economic and political embargo declared by States had not been fully respected, even though it could have been used as a tool to pressure the military junta and induce it to accept a compromise for a return to civilian government.

82. Ever since the coup, the illegal government had been engaging in terrorism, massacre and plunder and had violated numerous provisions of international human rights law which Haiti was committed to respect. It had, for example, done nothing to fulfil its legal obligations under the International Covenant on Civil and Political Rights, to which it had become a party in February 1991. To intimidate and terrorize the people, the security forces were daily carrying out summary executions in contravention of article 6 of the Covenant, which specified that every human being had the inherent right to life and that no one could be arbitrarily deprived of his life. More than 1,500 people had been killed since the coup d'état, either by the Army or by the Tontons Macoutes. In disregard of article 7, most of the people, including children, who had been arbitrarily arrested were frequently ill-treated and often tortured. A number of people had reportedly died shortly after release from prison, from the ill-treatment they had received. The security forces had also entered churches and arrested worshippers, and followers of Jean-Bertrand Aristide. In contravention of article 9 of the Covenant, arbitrary arrests were increasing hourly. Searches without warrant, prohibited under article 17, were frequent and regular. It was not only Father Aristide's followers who were subjected to violent repression: people working in the media were military targets, too. Radio correspondents had disappeared and despite numerous appeals by international human rights bodies, no news of them could be obtained. The director of Radio Caraïbes had been brutally murdered and many journalists who had been threatened had gone underground. A German television crew filming a demonstration had been questioned by the security forces and ill-treated before finally being released. Yet article 19 of the Covenant, of course, stated that everyone must have the right to hold opinions without interference.

83. The oppression was designed to eliminate any structure that could sustain the efforts of the Haitians to bring the country out of its economic stagnation. It tried to silence the representatives of organizations that were seeking to organize popular participation and establish a true democracy, and it completely obstructed technical and development cooperation programmes. It meant flouting the will of the people and meant murders, arrests and disappearances of innocent men, women and children. Until there was a return of law and order, Haiti would continue to live in agony.

84. Her organization therefore supported the recommendations in Mr. Bruni Celli's report. As President Aristide had pointed out in his statement to the Commission, the Commission must do everything possible to denounce those who abused their authority, force the putschists to respect fundamental rights and take firmer positions against Governments, even denouncing the usurpers of power who had no respect for the rights of others. The Commission should condemn the coup d'état of 30 September 1991; request States scrupulously to respect the embargo and to suspend decisions for the forcible return of refugees, pending settlement of the crisis; call for a return to constitutional government; and reappoint a special rapporteur to monitor the situation of the human rights and fundamental freedoms of the Haitian people.

85. Ms. BERRY (Lawyers Committee for Human Rights) said that, in February 1990, her organization had published an evaluation report on the programme of advisory services with specific reference to Guatemala, and had

urged the Commission to develop objective criteria for determining whether a country had demonstrated sufficient respect for international norms to be eligible to receive advisory services. Among the criteria proposed by her organization were the extent to which a country's civilian courts could function independently and prosecute members of the armed forces and the police implicated in human rights crimes; the extent to which civilian law enforcement institutions, such as the police, were separate from and independent of the military; whether there were reliable reports of torture by the country's armed forces or police; and whether there were reliable reports of other violations of the integrity of the individual by such forces.

86. Mr. Hector Gros Espiell, who had advised and assisted the Government of Guatemala for some four years, had reported in February 1990 that there had been no change in the situation and had stated that, until the gulf between law and reality was bridged, the human rights situation would not improve. The Lawyers Committee had similarly concluded that United Nations advice and assistance had had very little impact on Guatemala's dismal human rights situation, and had urged the Commission to suspend indefinitely its advisory services programme in that country and renew its commitment to monitor violations of basic rights. Two years later the situation was still serious and in some respects was deteriorating. The Government still failed to assert its authority over military and paramilitary groups or to investigate and prosecute those responsible for human rights crimes. There had been no improvement in the situation described by Mr. Gross Espiell in 1990: aided by an ineffectual and often intimidated judiciary, the armed forces continued to act with impunity, to kill and to cause disappearances.

87. According to the police, Myrna Mack, the prominent Guatemalan anthropologist, had been murdered in September 1990 because she had written a study on policies towards internally displaced persons in Guatemala. There were strong indications of a cover-up and the investigation had begun to drag on. Her organization knew of no Guatemalan officer who had been convicted of a human rights violation. If the killing of Myrna Mack could not be satisfactorily solved, there was little hope that the Government would assert its authority over its armed forces and security forces.

88. Her organization urged the Commission to bridge the gap between its acts and reality. It was stated in the Secretary-General's report on advisory services in the field of human rights that such services might complement, but could never be a substitute for, monitoring and investigation and that the provision of such advice and assistance in no way reduced a Government's accountability in human rights situations or exempted it from scrutiny. Encouraging statements had been made against the scourge of impunity, but the time had come for the Commission to admit that the United Nations programmes of advice and assistance to Guatemala had had no substantial impact on the enjoyment of human rights by the people of that country. The Commission should make it a priority to protect them and resume its monitoring and reporting on human rights violations there.

89. Referring to the situation in Haiti, in 1989 the United Nations expert on that country had urged the Commission to consider whether minimum standards of respect for international norms should be required for a country to benefit from United Nations advisory services, but his recommendations had gone

largely unheeded. Despite evidence of deep-rooted human rights problems, the Commission had decided at the previous session to consider the human rights situation in Haiti under agenda item 19 rather than agenda item 12. The horrifying events during and after the coup had confirmed her Committee's belief that that had been a mistake. The extent and frequency of gross human rights violations had reached levels not seen since the time of the Duvaliers. Extrajudicial executions, torture, arbitrary arrests, disappearances, prohibition of meetings and demonstrations and harsh measures against the press were a regular occurrence. She urged the Commission firmly to condemn those violations, to appoint a special rapporteur to monitor and report on the situation and to consider the question again under agenda item 12. Also it was to be hoped that the Special Rapporteurs on Torture and on Summary or Arbitrary Executions, as well as the Working Group on Arbitrary Detention, could shortly visit Haiti to conduct investigations.

90. The advisory services programme depended on close cooperation between government officials and the United Nations expert. The advisory services role could not be undertaken effectively in countries where there was a need for the Commission to monitor and report on serious human rights violations. Such services should never divert attention from the cause and severity of violations in recipient countries. In its 1990 report, her organization had recommended that the United Nations human rights bodies, and in particular the Commission, should revert as a matter of priority to their primary role of protecting people from human rights violations: the Commission should report impartially on such violations and make its findings available for diplomatic debate and action. Where there was a consistent pattern of gross violations, as in Guatemala and Haiti, it should give priority attention to carrying out its reporting functions effectively, as the only United Nations body empowered to do so. For some, it was the only intergovernmental body that would ever do so.

91. Increased attention should be given by the United Nations to the activities of non-governmental organizations working for the protection of human rights and in particular to those of local human rights groups and other independent non-governmental organizations working to sustain the rule of law. International non-governmental organizations increasingly saw their role as one of giving support and assistance to local groups and individuals, which the United Nations continued to exclude.

92. Secondly, the Lawyers Committee had continued to stress the importance of independent evaluation of projects. While welcoming policy guidelines providing for evaluation of both immediate and long-term objectives, it had repeatedly expressed its concern about the way in which such evaluation was carried out. It was glad to see from the Secretary-General's report that the Centre for Human Rights would continue to refine goals, priorities and criteria for project appraisal. There should be an open and objective review of all technical assistance projects, particularly when substantial sums of money and other resources were involved. That would mean setting practical and achievable goals within a realistic time-frame, so that projects could be usefully evaluated, and should include practical steps to determine, for example, whether prosecutions were brought against torturers, whether the police and prisons were under effective control, whether compensation was

given to persons wrongfully imprisoned and whether the government in question was making it clear to those concerned that human rights violations would no longer be tolerated.

93. Lastly, the report to the Sub-Commission on the independence of judges and lawyers (E/CN.4/Sub.2/1991/30), contained recommendations about the implementation of guidelines and criteria and improved cooperation between the various programmes that were of critical importance.

94. Mr. Solt (Hungary) took the Chair.

95. Mr. LEON ALVARADO (International Association against Torture) said that it was of the utmost importance to ascertain whether Governments benefiting from advisory services in the field of human rights under United Nations programmes were actually making a genuine effort to improve their human rights records. The last two Guatemalan Governments had been given the benefit of the doubt in that regard, and the Commission had decided to make advisory services available to them. Yet all manner of gross and systematic violations of human rights continued in Guatemala. A full catalogue of them was to be found in chapter III of the report by the independent Expert, Mr. Tomuschat (E/CN.4/1992/5). Had that report and the appeals of the Guatemalan people been heeded, there would have been no need to discuss the question of which agenda item was the most appropriate for the situation in Guatemala: the situation was now so serious as to warrant, not only consideration under agenda item 12 (c), but also the imposition of political, economic and other sanctions of the sort applied to Governments guilty of far less serious human rights violations than those committed in Guatemala.

96. In practice, there had been no improvement. The purely formal measures taken by the Government, whose President, Serrano Elías, had been a member of the Council of State during the bloody Ríos Montt dictatorship, did not address the problem. Reports by national and international human rights organizations showed that 1991 had been the country's worst year on record as far as human rights were concerned. Yet the Commission had not heeded the appeals of the Guatemalan people, preferring to lend its support to a Government that massacred its own people in the name of democracy. Advisory services in the field of human rights should be made available to Governments that were able to demonstrate concrete improvements in their human rights record. In the case of Guatemala, advisory services had instead been used to promote disinformation and conceal the seriousness of the situation.

97. The driving force behind the moves to ensure that Guatemala was not included under agenda item 12 (c) was the Government itself. The Commission should not allow a Government that violated human rights to dictate how its case was to be treated. His organization warmly welcomed the recommendation by the Experts on Haiti and Equatorial Guinea that special rapporteurs should be appointed for those countries, and contended that a comparable situation obtained in Guatemala.

98. As a Guatemalan directly affected by the human rights violations, he wished to thank those Governments, human rights bodies and non-governmental organizations that had supported the Guatemalan people over the years, and called upon Governments that had actively defended and supported the

Guatemalan Government to shoulder their share of the responsibility for any human rights violations in the future. It was deplorable that account had not been taken of the report by the Expert and of the reports emanating from Guatemala when a decision was taken on the question of Guatemala. In that regard, an inquiry should be made into the reasons why some information from non-governmental organizations was being withheld. It was to be hoped that, at the next session, the Commission would acknowledge the social cost in human lives resulting from the provision of advisory services to a Government and an army that had given no practical demonstration of the will to respect human rights.

99. Ms. de ANAYA (Commission for the Defence of Human Rights in Central America (CODEHUCA)) said that the increased use made of advisory services, noted in document E/CN.4/1992/49, would be a wholly positive development if it could be seen to be leading to a real improvement in respect for human rights in all countries. Unfortunately, that was not the case. There was thus a need to analyse the extent to which the advisory services provided were compatible with the objectives for which they had been instituted.

100. The role of advisory services was not to replace United Nations monitoring mechanisms, but to complement them. The ambiguous terms of reference of some advisory services placed them in a no-man's-land between advisory services and monitoring activities, thereby partly invalidating both exercises. Instead of containing an account of the advisory services provided, the use to which they had been put by Governments, and their effect on human rights, most of the reports presented by experts contained an account of the human rights situation that was more appropriate to the reports presented by special rapporteurs under agenda item 12 (c).

101. Advisory services must provide Governments with real opportunities to protect and strengthen human rights, not simply with a means of improving their international image; otherwise, they might well be used as an unmerited "certificate of good conduct" and as a means of concealing the seriousness of human rights violations. That was happening in the case of Guatemala. Each year, the Commission decided to give the Guatemalan Government another chance to carry out its expressed good intentions. Yet, in view of the systematic violations of human rights in that country, as evidenced by the testimony of numerous victims at the present session and by the report of the independent Expert, Mr. Tomuschat (E/CN.4/1992/5), and in particular, of the observations made in paragraphs 139 and 140, it was hard to justify advisory services for a Government that patently lacked the will to match the United Nations own efforts in the field of human rights. The decision taken by the Commission on Guatemala invalidated the work done by the Expert, and was also detrimental to the Commission's credibility.

102. As to the attempts by some Governments to have El Salvador considered under agenda item 19 instead of item 12, the peace agreements concluded between the Government and the Frente Farabundo Martí para la Liberación Nacional (FMLN) were certainly welcome but were only a first step, since serious violations were still being committed with impunity. If the agreements were to lead to tangible results, the Special Representative had to continue his monitoring activities in El Salvador, activities that must be strengthened by the provision of advisory services, as envisaged in the agreements.

103. CODEHUCA believed that advisory services should be made available, not only to Governments, but also to victims of human rights violations. If Governments often found it difficult to comply with their international human rights obligations because of an inadequate grasp of the way the system functioned, that was still truer of national non-governmental organizations, which had infinitely fewer financial and technical resources than Governments. How many lives might have been saved if the victims had known how to exploit the mechanism at the proper time? What use was the law, if it was not understood by those it was intended to protect?

104. CODEHUCA proposed that the involvement of all of a country's human rights organizations without exception should be a requisite for granting advisory services to a Government. If it genuinely intended to use technical assistance to ensure observance of human rights, a Government would undoubtedly encourage the participation of local non-governmental organizations, which could play an important role, improving their own human rights defence services, pointing out to the Government and the advisory missions the most crucial areas of need, and contributing to the drafting of special human rights legislation. Her organization thus endorsed paragraph 10 of Commission resolution 1990/59. However, simply encouraging Governments to cooperate with non-governmental organizations was not enough: such contacts must be a prerequisite for providing advisory services.

105. Mr. GHEORGHE (International Romani Union) said that the specialized assistance provided by the United Nations advisory services had made a significant contribution to improving the human rights legislation of the new democratic States of eastern Europe. In that regard, he singled out the evaluations carried out by Mr. Voyame, the Special Rapporteur on the human rights situation in Romania. However, even in terms of legislation, including the new constitutions being prepared, it was still possible to identify shortcomings that reflected both the ambiguities of the political cultures concerned, and also reluctance to deal openly with some aspects of everyday practice in eastern European societies. Some of the new constitutions had failed to include specific provisions to combat discrimination on such grounds as race, colour, national or ethnic origin or language, or membership of particular social groups combining all or some of those elements. The eastern European countries still lacked specific laws and administrative arrangements to deal with racial discrimination, violence and prejudice, despite the scale and intensity of xenophobic and racist attitudes in those societies, a fact that the intellectual and political élites of those countries still found hard to accept. He was thinking first and foremost of the prejudice and violence encountered by Roma and Sinti groups and individuals in most eastern European countries, though Jews, Blacks, Vietnamese and Arabs were also targeted. Advisory services and technical cooperation projects addressed to eastern European countries must include specialized assistance in the fields of drafting legislation and developing activities to define and combat racial discrimination, oppose racist attitudes, and promote the human rights of persons belonging to national, ethnic and religious minorities.

106. Prejudice and discrimination against Roma and Sinti populations was, however, a Europe-wide problem, calling for solutions at the international level. Since the previous session, there had been a remarkable increase in international awareness of the situation of Roma and Sinti people and of other

groups usually lumped together under the category of "gypsies". His organization welcomed the constructive steps taken by some Governments and international governmental organizations to promote dialogue with those groups and to take positive measures to improve their social and cultural circumstances. Noteworthy among those measures were the hearings and consultation on the social and cultural problems of Roma and Sinti people organized by the European Community in Brussels in May 1991, and by the Council of Europe in Strasbourg in July 1991, with the participation of a significant number of representatives of Roma communities from both western and eastern Europe; and the repeated commitments by the CSCE participating States to recognize the particular problems of Roma people, to take effective measures to ensure that they enjoyed equality of rights with majority populations, and to encourage research into their specific problems in individual countries. Resolution 1991/21 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities had also noted, *inter alia*, its concern for the particular vulnerability of the Roma communities to manifestations of racism, prejudice, discrimination, intolerance and xenophobia, and the Sub-Commission had recommended that the Commission should adopt a resolution at its current session inviting States to avail themselves of advisory services for that purpose.

107. Adoption of that resolution was of great importance to his organization. Two problems would have to be addressed. First, the Commission must elaborate a coherent programme to tackle the specific problems of the Roma; and secondly, Governments of countries hosting Roma communities must be encouraged to avail themselves of advisory services with a view to solving the problems of those communities in eastern European countries. His organization would be pleased to offer information and assistance, as far as its modest resources allowed.

108. Mr. MORALES (Four Directions Council) read out a statement by Mr. Marcelo Maigua, a member of the Ecuadorian indigenous community. Mr. Maigua drew attention to the need for advisory services in the field of human rights in Ecuador, where 45 per cent of the population was of Indian extraction. Ecuador was a signatory to various international instruments that affected indigenous peoples, but on the rare occasions when those instruments were applied, they were misinterpreted so as to justify the continued marginalization of the indigenous communities. As a Quechua citizen of Ecuador, Mr. Maigua was in danger of attack or summary execution by the paramilitary gangs employed by the large landowners. The Ecuadorian authorities showed no readiness to bring those responsible to justice, and the indigenous communities were thus persecuted and denied any legal redress. They were told by the Government that any person had the right to protect his property and to maintain private guards. Yet the proper purpose of private guards was to protect property, not to attack communities or execute particular leaders, as was the case in Ecuador. Those attacks were a response to the peaceful occupation by families and communities of abandoned land that had formerly belonged to agro-industrial landowners.

109. The indigenous communities had suffered for generations from a shortage of arable land, a shortage which was now exacerbated by population growth, causing hunger and extreme poverty in almost all provinces. The 1973 Agrarian Reform Act had guaranteed them the right to apply for land that had fallen out

of cultivation, but in more than a hundred cases the applications had been rejected or overlooked. After waiting for many years, the communities had finally occupied the land and planted staple crops. They had subsequently been violently evicted by the private paramilitary gangs, often with assistance from the police. Many had died or been seriously wounded in the disturbances, or illegally detained by the national police. Those murdered were often the community leaders, such as Julio Cabascango, a human rights activist killed in Imbabura, on 31 March 1991. The police had tortured his cousin, José Cabascango, Human Rights Secretary of the Confederation of Indigenous Nationalities of Ecuador, in June of the same year. According to Amnesty International, the police had investigated the case but had concluded that torture had not been employed. Following attacks on communities in Chine Alto and Anga Marca, an agreement had been reached between the Government, the landowners and the indigenous communities to resolve the conflict, but one landowner was still bent on creating new paramilitary gangs.

110. Because of the economic crisis and the external debt, the Ecuadorian Government depended on the landowners for export revenues and granted them loans on advantageous terms, tax benefits, infrastructure assistance and subsidies on imported inputs. Yet when the indigenous communities asked for the same benefits, they were told that it was impossible to single out one sector for aid, since to do so would constitute racial discrimination. Ecuador had accepted the standards set forth in the International Convention on the Elimination of All Forms of Racial Discrimination, but it appeared to need guidance in the correct interpretation and application of the Convention. The indigenous community was also suffering from malnutrition for lack of arable land, and from inadequate health services and drinking water shortages, in contravention of the provisions of the International Covenant on Economic, Social and Cultural Rights. As a result, they were the main victims of the current cholera epidemic, which was threatening the very future of their indigenous culture. His organization requested that advisory services should be provided to the Ecuadorian Government to assist it properly interpreting and applying the norms of those international instruments, and of the norms set forth in Ecuador's own domestic legislation.

111. Mr. FREDERICK (Service, Peace and Justice in Latin America) said that systematic violations of human rights in a constitutional regime should be subject to a monitoring procedure by appointing a rapporteur under agenda item 12, unless the guidelines set forth by Mr. Joinet in paragraph 304 (a) and (b) of document E/CN.4/Sub.2/1991/30 were applicable, in which case the country in question should, as a minimum, be accorded advisory services to assist it in dealing with those violations.

112. No country in South America was currently in receipt of the advisory services of an expert, although several countries had requested technical assistance from the Centre for Human Rights and Colombia had benefited from a joint UNDP/Centre for Human Rights programme of technical assistance. In paragraphs 62 to 67 of his report, Mr. Joinet described the results of the programme of technical assistance to Colombia as hard to evaluate, for lack of adequate information. Nevertheless, it was clear that the human rights situation in Colombia had deteriorated over the past five years, with an average of at least ten politically motivated murders every day since 1988 - a consistent pattern of gross violations of human rights that had not been

properly addressed by the Commission. As the promulgation of the 1991 Constitution, the handing over of drugs traffickers to the authorities and the disbanding of various guerrilla groups had not been reflected in a significant improvement in the situation. The time had now come to appoint an expert to provide on-the-spot advisory services to Colombia, as a means of fostering reconciliation, and to evaluate the results of the technical assistance programme.

113. Advisory services and technical assistance should also be extended to other countries that clearly did not comply with minimum standards for protection of their citizens' rights. Bhutan, an absolute monarchy, was one country whose citizens apparently enjoyed no legal protection from human rights violations, in the absence of a written constitution and an independent judiciary. Furthermore, it had not ratified most of the international human rights instruments.

114. When, in December 1990, the people of Haiti had chosen their President in the first free elections in their history, the peoples of Latin America had held out great hopes for that country. President Aristide's proposal to move on from destitution to dignified poverty had contrasted with the usual rhetoric of promises that remained unhonoured, and had reflected Haiti's situation after decades of backwardness and dictatorship. The international community had seen legitimacy conferred on its new leader in fair elections. But that same international community was aware of the need for solidarity with Haiti as it embarked on the road to democracy. With conspicuous exceptions, however, the demands imposed had outnumbered the contributions offered. As in other countries in Latin America, Haitian democracy had paid the price for trying to pursue a path involving fuller participation by the people, in which resources would be channelled towards the eradication of poverty and its endemic effects. Latin Americans knew that the anti-democratic will of the most bloodthirsty dictator was not sufficient to overthrow a Government elected by a substantial majority.

115. Many actions by States had isolated that new Government and had fostered the coup d'état of 30 September 1991. The widespread rejection of the coup had, fortunately, been reflected in actions by the international community in support of legality in Haiti. Father Aristide's address to the Commission, in his capacity as President of his country, was an acknowledgement of the legitimacy of his investiture. That acknowledgement, however, was not enough. The United Nations, countries and Governments that had supported democracy in Haiti must now speak out resolutely in favour of sovereignty, freedom and the right of its people to leave poverty, illiteracy and oppression behind.

116. Mr. EYA-NCHAMA (International Movement for Fraternal Union among Races and Peoples) said that the report by Mr. Volio Jiménez (E/CN.4/1992/51) showed that violations of human rights in Equatorial Guinea were constant and systematic. The Government of Silvestre Siale was a dictatorial Government; the State governed by Obiang Nguema was an authoritarian State. The sole objectives of the dictators were to keep a hold on power and to bequeath the country to their offspring when they died. His organization had been aware from the outset that the Government of Equatorial Guinea had requested advisory services purely to mislead the international community into believing that it was seriously interested in promoting and protecting human rights.

117. The citizens of Equatorial Guinea needed to live in a climate of political security or transparency in which they knew exactly when their leaders took, and when they left, office. They needed to know what procedure public institutions should follow if their leaders were to die in office. They needed to know what became of the taxes they paid. The citizens of Equatorial Guinea needed to live in legal security to enjoy equality before the law, a law that was binding on all citizens, rich and poor, leaders and led, men and women, young and old.

118. Unfortunately, the oligarchy that governed the country was above the law. Property registers were manipulated by the oligarchy to serve its own ends, so that domestic and foreign investment had dried up. The draft reform of the 1992 Constitution submitted for a so-called "referendum" by the de facto President on 17 November 1991 was even less democratic than its predecessor, a fact stressed by the Expert in his report. The conclusions reached in the report clearly set out a long catalogue of systematic violations of human rights in Equatorial Guinea. In 1985 the Commission had begun to treat the case of Equatorial Guinea under agenda item 19. The time had now come to consider it once again under agenda item 12, in the light of the serious deterioration in the human rights situation to which the Expert had drawn attention. The Commission must appoint a Special Rapporteur with a mandate to carry out a thorough investigation of those violations.

119. Ms. FAUCHERE (World Confederation of Labour) said that there was a sharp contrast between the warm welcome accorded by the Commission to President Aristide of Haiti earlier in the session and the fact that on 29 December 1991 a 10-year-old child had been arrested in Haiti for the crime of looking at a poster of the deposed President. The report by the independent Expert (E/CN.4/1992/50) drew attention to the terror that had reigned in Haiti since the coup d'état in September 1991. Murders, disappearances, abductions, arbitrary arrests, summary executions and offences against property continued. Meanwhile, media censorship had been imposed, and only 3 out of Haiti's 31 radio stations now dared to broadcast accurate information on the situation. Journalists, trade unionists and representatives of popular organizations had had to go underground, and their activities had come to a standstill. The military rulers had no intention of conceding one iota of power to the people.

120. Her organization endorsed the recommendations made by the Expert in paragraph 175 of his report and expressed the hope that the Commission and the United Nations would respond positively to President Aristide's appeal. It also asked the States concerned to suspend their decisions forcibly to return Haitian refugees until the current crisis had ended; and further requested the Commission to appoint a special rapporteur to monitor the human rights situation in Haiti.

121. In Equatorial Guinea too, the situation had seriously deteriorated. Her organization had several times testified to the Commission about violations of the fundamental rights of workers in that country, including the right to form trade unions, which was still not recognized. The conclusions in the report by the independent Expert (E/CN.4/1992/51) also drew attention to the absence of freedom of opinion and expression, freedom of the press, freedom of peaceful assembly and association, and to the fact that there was no

separation of powers. In 1991, the President had led people to believe that the wind of change was blowing in Equatorial Guinea, by promising a new Constitution. Opponents of the regime had revealed themselves and spoken out, whereupon the President had shown his true colours: the opponents had been arrested and the new Constitution had proved to be less democratic than its predecessor. The long struggle of the people of Equatorial Guinea to achieve respect for human rights and democracy had for many years been stifled by the East-West conflict. With the recent change in geopolitical realities, the time had come for the international community to support human rights activists in their fight to establish the rule of law in Equatorial Guinea. The independent Expert's mandate should be renewed.

122. Lastly, one disquieting aspect of the technical cooperation accorded to Equatorial Guinea was that, as the report revealed, Moroccan soldiers were policing the country; Moroccan soldiers were preventing freedom of movement; Moroccan soldiers were helping the authorities to imprison and torture the population; and those same Moroccan soldiers were executing opponents of the regime. One's impression was that Morocco had replaced Spain as the colonial Power in Africa. Morocco had already occupied one former Spanish colony; it was now in the process of occupying another.

123. Mr. SENE (Senegal) said that, despite its denunciation of the innumerable serious violations of human rights in Haiti since the September 1991 coup d'état, and its enumeration of the many efforts made by President Aristide's Government to bring about reform, the report of the independent Expert on the human rights situation in Haiti (E/CN.4/1992/50) had nevertheless been critical of some aspects of President Aristide's style of government. For his own part, President Aristide had called for the application of the laws and rules of justice, denouncing the corruption of the army's allies. Clearly, in Haiti as elsewhere, democracy could not be imposed by decree. It was not the rule of the largest number, but rather, the rule of law, that was at issue. Experience showed that democracy could only be applied to those societies that were ready to receive it, and that it could not be imposed from outside, since democracy required a modicum of social organization and cohesion, education and training, progress in material well-being, the smooth functioning of political parties, respect for fundamental freedoms, and, above all, economic development.

124. Yet effects should not be confused with causes. Poverty, social tensions and inequalities could only nurture obscurantism, authoritarianism, xenophobia, racism and all manner of extremist attitudes. With the end of the cold war and the new wind of freedom sweeping the world, the time was ripe for the United Nations to promote the process of democratization and to guide political regimes in directions more compatible with the Universal Declaration of Human Rights.

125. Haiti, under the leadership of Toussaint L'Ouverture, had fought a 13-year war of liberation before proclaiming the first black republic in 1804. That unexpected conquest of dignity and brotherhood, inspired by the ideas of the age of enlightenment and by the American and French Revolutions, had been a dangerous and costly gamble at the time, a high price to pay for freedom. Subsequently, Haiti had gone on to support Simón Bolívar's struggle to liberate the peoples of Latin America, providing him with substantial

military support. For a long time, however, Haiti had suffered isolation, persecution and oppression at the hands of its dictators, with the result that the Haitian diaspora now accounted for more than a million persons, out of a total population of 6.5 million. Latterly, Senegal had welcomed a number of Haitian intellectuals in exile, who had returned to Haiti when the democratic process got under way. Yet, like Ethiopia, Haiti had been a founder member of the League of Nations and of the United Nations.

126. Hence, as it celebrated the Five hundredth Anniversary of the discovery of America by Christopher Columbus, the world must also commemorate the Negro Slave trade that had persisted for four centuries, of which the people of Haiti bore the stigmata, and to whose victims Pope John Paul II had paid tribute when visiting Ile de Gorée during his recent African tour. The Pope's words of compassion spoken on that occasion only served to underscore the importance of according the utmost attention to the current situation in Haiti, and of mobilizing international efforts to secure the re-establishment of a constitutional government. The widespread condemnation of the coup by a number of international bodies and non-governmental organizations was encouraging evidence of solidarity with the people of Haiti.

127. Whatever form the solution took, it must be a peaceful solution. His delegation thus attached great importance to the current negotiations. Of course, any lasting solution in Haiti necessarily involved progress in economic and social development and a reduction in the unacceptably high illiteracy and unemployment rates. Programmes of advisory services and technical assistance in the field of human rights must be aimed at promoting knowledge and understanding of international standards and the application of human rights conventions and instruments. The Centre for Human Rights thus had a crucial role to play in providing information, education, training and documentation to back up national institutions and infrastructures and regional commissions. Needless to say, such international cooperation required mutual respect, transparency and coordination among the partners.

128. The structures and working methods for management of the advisory services and voluntary contributions must be flexible and effective, while taking into account the interests of the populations concerned. Bilateral cooperation and active participation by non-governmental organizations also had their place, alongside monitoring mechanisms and recourse to the services of Experts. If long-term objectives were to be attained, considerable financial, human and technical resources would be needed to assist States in that crucial phase of securing democracy, respect for fundamental freedoms and the rule of law, and relaunching development objectives with a view to building a world in which peace and justice prevailed.

129. Ms. PARKER (International Educational Development) said that advisory services were intended to provide assistance to States that showed a meaningful intention to improve observance of human rights or, in spite of a good human rights record, sought guidance on specific questions. The Commission should thus take special care to ensure that such services were not provided to countries under a military dictatorship or where the military exercised undue control. To provide them was to provide political protection to illegal or undemocratic regimes, as well as to undermine basic principles of human rights.

130. It was equally unacceptable to provide advisory services to a country that was in a state of civil war. Article 1 of the 1949 Geneva Conventions imposed a duty on all signatories to ensure respect for the Conventions in all circumstances. In its 1986 decision in Military and paramilitary activities, the International Court of Justice had clearly established the universality of article 1 of the Conventions, ruling that all States, even if not directly involved in the conflict, had a duty. Her organization accordingly concluded that the duty remained applicable when the international community acted in concert with regard to a situation in which a war was raging. The Commission had thus acted wisely in maintaining strict scrutiny of El Salvador during the civil war, in spite of the election of a civilian Government. However, it had failed to comply with the duty indicated by the International Court of Justice, in reducing its scrutiny of Guatemala. Perhaps the absence of the Guatemalan delegation in the course of most of the debate was a measure of its intention to improve human rights.

131. In practical terms, the Commission's failure to maintain strict scrutiny of a country at war meant that the item 19 procedure became a diplomatic substitute for a procedure under item 12. She sympathized with the intention to extend diplomatic courtesy to President Cerezo, who had been elected after many years of repressive military rule, but such courtesy should not be maintained when, following the election of a new president, Guatemala's human rights situation clearly remained one of the worst in the world.

132. Her organization welcomed the references by the Expert, in paragraphs 50 to 72 of his report (E/CN.4/1992/5), to the human rights abuses stemming from the armed conflict, acts that were serious violations of the Geneva Conventions and should therefore be most vigorously condemned, not glossed over with diplomatic niceties. The duty imposed upon signatories of the Geneva Conventions to seek out and find alleged violators of the Conventions was an affirmative duty, recalling the judgement of the Inter-American Court of Human Rights in the Velásquez Rodríguez case cited by the representative of the Netherlands in his statement under agenda item 12. Furthermore, in its decision of 29 July 1988, the Inter-American Court had affirmed that signatories to the Geneva Conventions had a legal duty to carry out a serious investigation, to identify those responsible for the violations, to impose the appropriate punishment, and to ensure adequate compensation for the victims.

133. Criticizing some acts carried out by the revolutionary forces in paragraph 206 of his report, the Expert had stated that in no circumstances should infrastructure such as bridges or electric power lines be destroyed. International Educational Development knew of no rule of humanitarian law that prohibited the targeting of such infrastructure. The Additional Protocols I and II of 1977 forbade the targeting of facilities that would unleash harmful forces on the civilian population, but did not remove bridges and electrical power plants from the category of legitimate targets. IED believed that all humanitarian law should be applied correctly and equally to all combatant forces. The people of Iraq and Kuwait would undoubtedly have a legitimate claim against the armed forces of the United States of America if destruction of bridges and electrical power facilities had been prohibited under humanitarian laws.

134. One area in which advisory services could play a useful and innovative role concerned violations that had taken place long ago. The issue of Korean "comfort women" and other long-unresolved violations had been raised by her organization and by War Amputations of Canada under other agenda items. Those and similar cases could be addressed through advisory services.

135. In view of recent events, it was no longer appropriate to consider the human rights situation in Haiti under agenda item 19 and she also hoped that any review of Haiti would address the plight of Haitian refugees abducted by the United States authorities on the high seas and sent back to Haiti in clear violation of international law.

136. Mr. ARTUCIO (International Commission of Jurists (ICJ)) said that the perpetrators of the coup d'état on 30 September 1991 that had deposed President Aristide of Haiti had sought to justify their actions by accusing the Aristide Government of human rights abuses. ICJ conceded that acts of violence had undoubtedly been committed against former Tontons Macoutes and lawyers who had defended those accused of repression and of seeking to overthrow the democratic Government, but contended that in no case could the deposed Government be held responsible for those acts. The new regime imposed by General Cedras already had a lamentable record of summary executions, terrorist murders, disappearances, arbitrary arrests, looting, torture and suppression of civil and political rights, resulting in an exodus of tens of thousands of "boat people". The State repression apparatus of the Duvalier years had been resurrected, with all the corruption and intimidation that implied.

137. Haiti was a true test of the application of democracy in the region, and a challenge to the inter-American and world communities. Governments of the Organization of American States had committed themselves to ensuring that in no circumstances would a new dictatorship be installed in the continent. His organization firmly supported the declaration adopted in Cartagena by the President of the Member States of the Rio Group, on 2 December 1991, calling for maintenance of the measures adopted until such time as President Aristide was restored to office. The approach proposed by the Organization of American States was the right way forward. ICJ called upon the Commission to take measures to maximize monitoring of the human rights situation in Haiti, by appointing a special rapporteur, as recommended by the Expert in paragraph 175 (f) of his report (E/CN.4/1992/50), and as advocated by President Aristide himself. It also called upon the Commission to declare that a return to democracy was the only road the people of Haiti could take to achieve peace, stability and development in a climate of social justice.

138. He also welcomed the progress made in establishing a dialogue between the Government and the UNRG with a view to achieving peace in Guatemala. Unfortunately, however, the toll of victims and destruction in the armed conflict continued to mount, and human rights violations by members of the armed forces and civilian patrols (PACs) showed no signs of halting. Attention was drawn to the latter phenomenon in paragraph 193 of the report by the Expert (E/CN.4/1992/5). A solution to the conflict in Guatemala must be achieved through negotiation, if possible in the course of 1992. The Commission should step up its monitoring of the situation in Guatemala and call upon both parties to continue the negotiations with a view to achieving the widest possible agreements.

139. The case of Equatorial Guinea had been before the Commission since 1980, yet no significant progress had been made. At the end of 1991, under the auspices of the Government of Spain, the possibility had emerged of a dialogue between the Government and members of the exiled opposition. Those hopes had been dashed by the recent news that a number of political opponents had been arrested following the promulgation of the December 1991 Amnesty Act. The conclusions reached by the Expert in his report (E/CN.4/1992/51, paras. 122-124) were far from encouraging. The Commission should inform the Government of Equatorial Guinea that the path to democracy entailed political pluralism, tolerance, respect for rights, the safe return of exiles, and strengthening and training of the judiciary. The international community must at all costs avoid allowing the hopes for freedom, democracy and national progress to be frustrated yet again. Further monitoring of the situation was needed by resuming consideration of the case under item 12 of the agenda, as the people of Equatorial Guinea would wish.

140. Ms. ERAZO (World University Service) said that in 1987 the Commission had called for advisory services for Guatemala and Haiti, having concluded that human rights violations in those countries were a thing of the past. In the context of the advisory services programme, the two countries had interesting points in common. In both cases, it was assumed that the civilian Government had not only the will but also the ability to make sure that their military and police forces respected citizens' rights and freedoms. In both countries, disappearances, summary executions and torture had continued throughout the period in which advisory services were provided. Neither Government had been requested by the Commission to supply specific evidence that violations of fundamental rights and freedoms had ceased. Both cases had been considered by the Commission under an agenda item that was inappropriate, since they were countries in which there was a consistent pattern of gross violations of human rights. Lastly, both countries were ruled by armies that considered themselves above the law and not answerable to democratic institutions.

141. Various member States had expressed concern that the programme of advisory services should not be used as an alternative to the procedure under agenda item 12, so as to accommodate national and regional political interests. Full details of the human rights abuses in Guatemala were set out in the report of the Working Group contained in document E/CN.4/1992/18, in the report by the Special Rapporteur on torture (E/CN.4/1992/17), and in the report by the independent Expert on Guatemala (E/CN.4/1992/5). The cases of Edwin Esteban Rodríguez García (para. 112 of the Expert's report) and Otto Iván Rodríguez showed that seminars and courses were not an adequate response to the widespread human rights abuses in Guatemala. Such offences must be investigated and punished by an independent judiciary fulfilling its role as guarantor of fundamental rights and freedoms. The study by a group of human rights lawyers in New York which had evaluated the advisory services programme for Guatemala, recommended that the Commission should establish objective criteria for determining whether a country had shown sufficient respect for international norms to be included in the advisory services programme. Those criteria included the capacity of the ordinary courts to function independently and try members of the military and police forces responsible for human rights violations; assessment of reliable information on acts of torture committed by members of the military and police forces; and

evaluation of information from reliable sources on other violations of the right to life and security, such as disappearances and summary or arbitrary executions.

142. The leader of the University Students' Association of the University of San Carlos, Otto Vásquez Peralta, had been prevented from attending the current session of the Commission, after publicly accusing the Guatemalan armed forces of being responsible for the attack on the student headquarters and of threatening leaders of various popular organizations.

143. Extension of advisory services to countries guilty of serious human rights violations exacerbated the situation of the victims by sending Governments the wrong signals. The decision to include Haiti in the programme of advisory services had been premature, and the time had now come to consider the matter under agenda item 12. In the case of Guatemala, advisory services were being provided to a Government that violated human rights and then abandoned the victims of the violations to their fate. It was deplorable that the Guatemalan Government was ignoring the present debate. The inappropriate treatment of the case of Guatemala was a betrayal of past, present and potential victims of violations. The Commission must deal with the case of Guatemala by objective criteria, in the light of the reports and of the sectors most affected, in particular the indigenous populations and children.

144. Mr. BONABA (International Peace Bureau) said that the report by the independent Expert (E/CN.4/1992/51) presented a clear picture of the serious deterioration in the human rights situation in Equatorial Guinea, and in particular, of the absence of political freedom. Attempts by the exiled opposition platform to engage in a dialogue with the Government with a view to establishing the bases for democratization and respect for fundamental freedoms had thus far met with a negative response. Article 3 of the recently promulgated Act No. 3/1992, of 6 January, on political parties, prohibited any parties which, *inter alia*, had the same name as those in existence prior to 12 October 1968. The specific purpose of the restriction was to outlaw the Unión Bubi party, a party which sought to protect and preserve the social and cultural interests of the Bubi ethnic group on the island of Bioko. The new law thus ran counter to the recommendation made by the Expert in paragraph 147 of his report. The situation required particularly close examination and the Commission should thus decide to take up the case of Equatorial Guinea under item 12 of its agenda, as a means of ensuring that the situation in that country did not deteriorate still further.

145. Mr. IVINA (Conference of European Churches), speaking on behalf of the Madrid Pact for the Democratization and Self-Development of Equatorial Guinea, an opposition movement representing the majority of the political parties in exile, said that the conclusions set forth in the report by the independent Expert (E/CN.4/1992/51) fully coincided with his organization's views on the seriousness of the systematic violations of human rights in Equatorial Guinea, exemplified by the failure of President Obiang Nguema to honour the promises to bring about democratization and dialogue that he had made publicly on the occasion of the recent visit by the President of the Government of Spain. In 13 years of dictatorship the regime had once again brought the country to its knees, socially, economically, politically and culturally, and had driven a large proportion of the population into exile.

146. His organization constituted a peaceful and orderly opposition movement, with a base both inside and outside Equatorial Guinea, fitted to oversee the transition to democracy and self-development in a context of observance of human rights. On behalf of the exiled peoples of Equatorial Guinea, he called upon the international community to bring about an end to the dictatorship. The situation in Equatorial Guinea required particularly close examination as a matter of urgency; the Commission should therefore decide to resume consideration of the case of Equatorial Guinea under item 12 of the agenda, as a way of making sure that the situation did not deteriorate still further.

147. Mr. MOCONG (World Alliance of Reformed Churches) said that his organization deplored the massive violations of human rights in Equatorial Guinea in 1991; the increase in arbitrary arrests and torture had resulted in a climate of terror. There was a peaceful and orderly opposition movement, fitted to oversee the transition to democracy and self-development in a climate of respect for human rights, with a base both inside and outside Equatorial Guinea. That opposition had a programme and was ready to negotiate. It was engaged in a dialogue with the Government of Spain and the international community.

148. In his reply to the statement by the Expert, Mr. Volio Jiménez, the Minister of State of Equatorial Guinea had dismissed the feasibility of realizing human rights in a country totally lacking in the necessary social and political infrastructures. The blame for that situation could be laid squarely at the door of the President Obiang Nguema's Government, of which the Minister of State was himself a member. That Government had had 13 years to establish the bases for respect for human rights and democracy. It had also had the support of the Commission in the form of the plan of action. Yet the situation was worse than before and the Expert was right to affirm that there had been a return to dictatorship in Equatorial Guinea.

149. While freedom was regarded as a stick to beat people with, rather than as a right to be accorded even to one's opponents, and until such time as freedom under the rule of law was generally accepted, freedom would be a travesty in Equatorial Guinea. True freedom presupposed serious laws, independent judges and responsible officials. Above all, it presupposed proven statesmen who recognized the place of a free and efficient State in a civilized society, and it called for rectitude on the part of politicians. Any movement designed to secure democratization must exercise caution with regard both to the present and to the future. It must not take as its starting point the mistaken idea that a country was a private estate or a slate that only needed to be wiped clean for the word freedom to be writ large. A society was the complex product of its geography, history and economic structure, a complex system of institutions. Promotion of respect for human rights required both resources and political will. While it was for the international community to provide the necessary resources, the political will could be provided only by the Government. And, while the Centre for Human Rights was indeed providing resources, the Government of Equatorial Guinea had shown that it totally lacked the political will to promote respect for human rights. The situation in Equatorial Guinea was so serious that the time had now come to resume consideration of the case under agenda item 12.

150. Mr. GONZALES (International Indian Treaty Council), welcoming the Secretary-General's efforts to provide advisory services in the field of human rights to Governments that had requested them, said that 1993 might provide a good opportunity to hold a seminar, with worldwide participation, on the rights of indigenous peoples.

151. At its thirteenth international conference, held in Alaska in July 1991, his organization had focused, *inter alia*, on the human rights situation in Guatemala and had adopted a resolution declaring its solidarity with the Indian peoples, and with all victims of repression in that country. At its previous session, the Commission had deferred a decision on the question of the most appropriate agenda item for considering the case of Guatemala. In resolution 1991/5, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had requested the Expert to accord particular attention to the situation of the indigenous peoples.

152. From a careful reading of the reports before the Commission, including the report by the independent Expert, Mr. Tomuschat (E/CN.4/1992/5), one was entitled to ask whether there was a single universally recognized right or fundamental freedom set forth in international law that had not been violated in Guatemala. Not one article of the Universal Declaration of Human Rights was fully respected. The so-called "improvements" in the situation were no more than promises: promises that the Commission had been hearing since 1979. Human rights defence organizations reported that in 1991, summary executions had totalled 735, while 40 persons had been murdered in a total of 10 massacres and 83 persons had gone missing. Most had been tortured, and some mutilated before receiving the *coup de grâce*, which was the hallmark of the army-controlled death squads. Death threats and intimidation of activists also extended to foreigners, some of whom had been tortured and murdered.

153. Consideration of the case of Guatemala under agenda item 19 was inconsistent with the Expert's findings, and the Indian peoples in Guatemala were being subjected to a policy of ethnocide, as defined by UNESCO's 1981 San José Declaration. The historical pattern of discrimination against indigenous populations had continued at the "San José 8 Meeting" between Ministers for Foreign Affairs of Central America and the EEC, held in Lisbon on 25 February 1992, at which the Guatemalan official delegation had refused to be present in the same building as Ms. Rigoberta Menchú, a member of the International Indian Treaty Council leadership. If that was the way indigenous populations were treated at the international level, there was no need to ask how they were treated in Guatemala, in the rural areas. They were the victims of a policy of discrimination that also affected their economic, social and cultural rights.

154. His organization had hoped that, after four years of advisory services, there would have been a real improvement in the situation of the indigenous peoples. It fully endorsed resolution B/3-1156/92, adopted by the European Parliament on 13 February 1992, a resolution that urged the United Nations Commission on Human Rights to appoint a special rapporteur to report on Guatemala under item 12 of its agenda. It was a cruel irony of history that, in the year of the fifth centenary of the so-called "discovery" of America, his organization should have to testify before the Commission in order to affirm that the Indian peoples of Guatemala were, like the other peoples of

the world, human beings, with a right to peace and to life. He trusted that the Commission would adopt a resolution consistent with the objectives for which it had been established.

ELECTION OF MEMBERS OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES (agenda item 23) (continued) (E/CN.4/1992/56 and Add.1-5)

155. The CHAIRMAN invited the members of the Commission to indicate their choice in the fourth round of the ballot.

At the invitation of the Chairman, Mrs. Galvis (Colombia), Rapporteur, acted as teller.

A vote was taken by secret ballot.

<u>Number of ballot papers:</u>	51
<u>Invalid ballots:</u>	2
<u>Number of valid ballots:</u>	49
<u>Abstentions:</u>	2
<u>Required majority:</u>	26
<u>Number of votes obtained:</u>	
Mr. Bíró	16
Ms. Michalska	16
Mr. Boutkevitch	15

156. The CHAIRMAN said that, since no candidate had secured the required majority, a fifth vote would be taken at the Commission's next meeting.

The meeting rose at 11.55 p.m.